

Daniel "Danny" Mayfield
Commissioner, District 1
Miguel M. Chavez
Commissioner, District 2
Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4
Liz Stefanics
Commissioner, District 5
Katherine Miller
County Manager

DATE: March 24, 2014

TO: Board of County Commissioners

FROM: John Lovato, Development Review Specialist Sr. *Jf*

VIA: Katherine Miller, County Manager
Penny Ellis-Green, Land Use Administrator *PEG*
Vicki Lucero, Building and Development Services Manager *VL*
Wayne Dalton, Building and Development Services Supervisor *WD*

FILE REF.: CDRC CASE # V 14-5020 Dennis & Lynne Comeau Variance

ISSUE:

Dennis and Lynne Comeau, Applicants, request a variance of Article VII, Section 3.4.1.c.1.c.i (No Build areas) of the Land Development Code, to allow 30% slope disturbance for an existing driveway to access a buildable area on a 66.52 acre parcel.

The property is located at 191 County Road 74 in the vicinity of Tesuque, within Section 20, Township 18 North, Range 10 East, (Commission District 1).

Vicinity Map:



REQUEST SUMMARY:

The Applicants request a variance to allow disturbance of 30 % slope for a driveway to access a parcel totaling 66.52 acres. The driveway has been previously cut and was not permitted through the Santa Fe County Building and Development Services Department. The existing access contains grades greater than 11% which exceeds access requirements for Fire and Emergency vehicles.

Article VII, § 3.41.c.1.c.i (No Build Areas) of the Land Development Code states That the Code Administrator may approve exceptions for disturbance of 30% slopes or greater for: “access for corridors, utility corridors and landscape areas proposed on natural slopes in excess of thirty percent (30%) that disturb no more than three (3) separate areas of no more than one thousand (1,000) square feet each provided the Applicant demonstrates that no alternative development location is available”

The previously cut driveway requires a variance of Article VII, § 3.4.1.c.1.c.i (No Build areas) to allow 30% slope disturbance. The first occurrence is 28,572 square feet, and the second occurrence is 2,568 square feet. The total combined disturbance is 31,140 square feet. The Land Development Code allows up to three isolated occurrences each not to exceed 1,000 square feet for access.

The Applicants state the driveway was created before the purchase of the property, and they have no other route to the only buildable site on the property. Therefore, they are asking for a variance to allow the disturbance of 30% slope. Staff has confirmed that this area is the only buildable site on the property. The driveway was cut without approved plans. The Applicant has submitted plans sealed by a Professional Engineer that identify a total of 31,140 square feet of slope disturbance with 443 linear feet of retaining wall.

Article II, § 3 (Variances) of the County Code states: “Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance.” This Section goes on to state “In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified”. **(The Variance Criteria does not consider financial or medical reasons as extraordinary hardship).**

This Application was submitted on January 21, 2013.

On February 20, 2014 The CDRC Met and acted on this case. The CDRC recommended tabling of the case to allow the Applicant to meet with the adjacent property owner to try to come to an agreement for shared access which would minimize slope disturbance that would be created by having two totally separate driveways.

On February 25, 2014, staff met with the two parties and recommended sharing the existing driveway to reduce further scarring of an additional access. The Applicants have agreed to share a portion of the existing driveway with the adjoining property owner. Letter Attached as (Exhibit 9)

On March 20, 2014 The CDRC met and acted on this case. The Decision of the CDRC was to recommend approval of the requested variance with a shared driveway. (7-0 unanimous decision)

Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the request meets the intent of the variance criteria of the Code, due to unusual topography of the site and the limited buildable area.

APPROVAL SOUGHT: Approval for previously cut driveway to access a building site on a parcel containing 66.52 acres, which due to site conditions would require a variance of Article VII, § 3.4.1.c.1.c.i (No Build Areas) to allow two (2) separate areas of 30% slope disturbance totaling 31,140 square feet.

GROWTH MANAGEMENT AREA: El Centro, SDA-2

VARIANCES: Yes

HYDROLOGIC ZONE: Mountain Hydrologic Zone, minimum lot size per Code is 80 acres per dwelling. Lot size can be reduced to 20 acres per dwelling with signed and recorded water restrictions.

ACCESS: County Road 74.

FIRE PROTECTION: Tesuque Fire District.

WATER SUPPLY: Domestic Well

LIQUID WASTE: Conventional Septic System

AGENCY REVIEW:	<u>Agency</u>	<u>Recommendation</u>
	County Fire	Approval
	Public Works	Conditional Approval

STAFF RECOMMENDATION: Staff acknowledges this request does not meet Code requirements. The Applicants have also amended their Application to share a portion of their driveway with their neighbors to reduce scarring. This driveway accesses the only buildable area on the property. The cut was done prior to the Applicants owning the property. Staff feels this could be considered an easing

of Code requirements due to the driveway being previously cut. The Applicant proposes to make the driveway more accessible for emergency vehicles, meeting life safety concerns, and fire Code requirements. It also meets the intent of the Code criteria for variances due to the unusual topography of the site. Therefore, Staff recommends approval of the Applicants request.

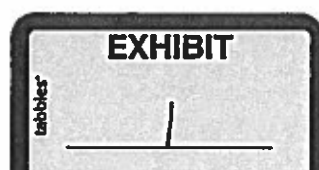
The decision of the CDRC was to recommend approval of the Applicant's request of a variance. If the decision of the BCC is to approve the Applicants request of a variance, staff recommends imposition of the following conditions:

1. The Applicant must obtain a development permit from the Building and Development Services Department for construction of the driveway. (As per Article II, § 2).
2. The Applicant shall submit a grading plan. Any further disturbance shall be marked before any grading is done. (As per Article VII, § 3.4.3.c).
3. The Applicant shall comply with all Fire Prevention Division requirements at time of development application (As per 1997 Fire Code and 1997 Life Safety Code).

EXHIBITS:

1. March 20, 2014 CDRC Minutes
2. February 20, 2014 CDRC Minutes
3. Letter of request
4. Review Agency Comments
5. Article VII, § 3.4.1.c.c.i (No Build Areas)
6. Article II, § 3 (Variances)
7. Applicant's Plans
8. Site Photographs
9. Aerial of Site and Surrounding Area
10. Letter of Agreement/Revised access plan

The CDRC Minutes have not yet been provided to us. We will have them by Friday (4/4/14) and will e-mail them and provide hard copies to the Commissioners and relevant staff at that time.



There was no one from the public wishing to speak.

Based on the testimony heard Member Katz moved to approve Case #C 13-5400 with two staff conditions. He noted many people used the road. Member Anaya seconded and the motion carried by 6-0 voice vote.

- VII. E. **CDRC CASE # V 14-5020 Dennis & Lynne Comeau Variance.** Dennis and Lynne Comeau, Applicants, request for a variance of Article VII, Section 3.4.1.c.1.c.i (No-Build areas) of the Land Development Code, to allow 30 percent slope disturbance for an existing driveway to access a buildable area on a 66.52-acre parcel. The property is located at 191 County Road 74 in the vicinity of Tesuque, within Section 20, Township 18 North, Range 10 East, (Commission District 1)

Mr. Lovato read the caption and gave the following staff report:

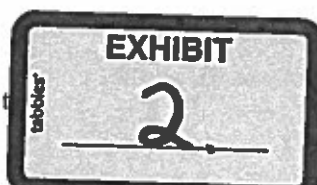
"The Applicants request a variance to allow disturbance of 30 percent slope for a driveway to access a parcel totaling 66.52 acres. The driveway has been previously cut and was not permitted through the Santa Fe County Building and Development Services Department. The existing access contains grades greater than 11 percent which exceeds access requirements for Fire and Emergency vehicles.

"The previously cut driveway requires a variance of Article VII, § 3.4.1.c.1.c.i (No Build areas) to allow 30 percent slope disturbance. The first occurrence is 28,572 square feet, and the second occurrence is 2,568 square feet. The total combined disturbance is 31,140 square feet. The Land Development Code allows up to three isolated occurrences each not to exceed 1,000 square feet for access.

"The Applicants state the driveway was created before the purchase of the property, and they have no other route to the only buildable site on the property. Therefore, they are asking for a variance to allow the disturbance of 30% slope. Staff has confirmed that this is the only buildable site on the property. The driveway was cut without approved plans. The Applicant has submitted plans sealed by a Professional Engineer that identify a total of 31,140 square feet of slope disturbance with 443 linear feet of retaining wall.

"Growth Management staff has reviewed this Application for compliance with pertinent Code requirements and finds the request meets the intent of the variance criteria of the Code, due to unusual topography of the site and the limited buildable area."

Mr. Lovato indicated Staff acknowledges this request does not meet Code requirements. This driveway accesses the only buildable area on the property. The cut was done prior to the Applicants owning the property. Staff feels this could be considered an easing of code requirements due to the driveway being previously cut. The Applicant



proposes to make the driveway more accessible for emergency vehicles, meeting life safety concerns, and fire code requirements. It also meets the intent of the Code criteria for variances due to the unusual topography of the site. Therefore, Staff recommends approval of the Applicant's request.

If the decision of the CDRC is to recommend approval of the Applicant's request for a variance, staff recommends imposition of the following conditions:

1. The Applicant must obtain a development permit from the Building and Development Services Department for construction of the driveway. (As per Article II, § 2).
2. The Applicant shall submit a grading plan. Any further disturbance shall be marked before any grading is done. (As per Article VII, § 3.4.3.c).
3. ~~The driveway grade shall not exceed 11%. (As Per Article V, § 8.1.3 (Legal Access))~~ [Removed at staff report.]
4. The Applicant shall comply with all Fire Prevention Division requirements at time of development application (As per 1997 Fire Code and 1997 Life Safety Code).

Member Katz noted that since there is only one buildable site, denial of this variance could constitute a taking. Ms. Brown said that was a nuanced legal determination but it was a possibility.

Member Booth asked for clarification on the grade percentage allowed for the driveway. Mr. Lovato said up to 15 percent is allowed and this driveway has a maximum of 13 percent. She asked if the people who created the driveway were fined and Mr. Lovato said they were not. The situation did not become clear into a residence permit was requested.

Deb Short, under oath and the builder for the property, stated the problem was discovered in the course of permitting. They have worked to comply with all the conditions recommended by Land Use and the Fire Marshal. The house will be sprinklered and there are staging and passing areas for emergency vehicles. They are trying to avoid disturbing any more of the land.

Member Gonzales ascertained that the lot was 66 acres and there was no plan to subdivide further. Ms. Short said there is very little buildable land. They have a private well.

Chair Drobnis asked if there would be additional grading and retaining walls. Ms. Short said there would be.

Fire Marshal Patty indicated that the property is very steep and the route they anticipate appears to be the only possible access. It is impossible to get the slope less than 13 percent.

Henry Carey, duly sworn, provided maps and supporting materials. [Exhibit 4] He said he owns the property to the east and demonstrated his easement, which goes along the northern boundary on the map. The road as built does not follow the easement as drawn. His concern was that the Comeau's driveway would form a stair-step with his planned driveway and in places intersect with it. Some of the slopes are at around 40 percent. He asked that there be an accurate survey and an engineering study of the driveways being so close to one another. He has spoken with Mr. Comeau and he is open to a common solution.

Member Katz asked how Mr. Carey intends to build his driveway. He said he would have the same problems. The easement dates back to the time of the Pacheco Family. The land under the easement belongs to the Comeau's.

Member Gonzales asked what the effect of the new code would be. Mr. Lovato said there would be minimal or no difference.

Duly sworn, Engineer Morey Walker used a map to show the difficulties involved. The Comeau property is much closer to the road so they have to start the slope sooner. A shared driveway would require an additional variance since it would have to be 20 feet wide instead of 14 feet and disturb more slopes.

Chair Drobnis asked if they would be willing to delay a month in order to work for a common solution. Ms. Short said they've already delayed three months.

Mr. Carey expressed his concern that he would be prevented from building his driveway in the future.

Member Booth asked if they were ones who put the driveway in originally. Mr. Walker said they were not but they're attempting to fix it. Member Booth said she didn't want to encourage people to put in illegal roads. Mr. Walker said his clients were unaware of the problems when they purchased the property. Ms. Brown said she was unaware of any effective remedy against the people who originally put in the driveway at this point.

Mr. Walker explained the grading they were planning.

There was no one else from the public wishing to speak.

Member Katz moved to postpone the case for a month in order to allow a consolidation of the two plans to minimize slope disturbance. Member Booth seconded and to motion carried 4-2 with Members Anaya and Gonzales voting against.

Ms. Lucero said the case would be placed on next month's agenda.

LETTER OF INTENT RE: APPLICATION FOR VARIANCE FOR COMEAU DRIVEWAY

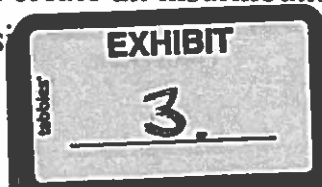
January 10, 2014
Santa Fe County
Variance Hearings
102 Grant Ave. Santa Fe, NM 87504

This letter is written to provide an explicit statement as to the nature and intent of the variance that is being requested by Vineyard Homes LLC (the contractor). The size of the property is 48 acres. The owners, Dennis and Lynne Comeau wish to build their home on a ridge top in Tesuque County. We are asking for a variance on a driveway that is on a hill that in sections exceed 30% slope.

Vineyard Homes LLC along with the Tesuque Fire department, Santa Fe Public Works and the Department of Land Use have determined that this driveway is the only route to the building pad of the home from SF County Road 74.

Buster Patty with the Tesuque fire department has requested a "pass by" and a "turn around" area for emergency vehicles. This will be satisfied with a "turn around" area at the top of the driveway near the home and a "pass by" $\frac{3}{4}$ of the way up the driveway. He also is requesting a staging area at the bottom of the driveway for emergency vehicles. We have been granted permission by the owner of the property where the community well is located to use his property as a staging area for emergency vehicles. This property is located at the base of the driveway on the other side of SF County Road 74.

We respectfully request relief from the strict letter of the ordinance requirements prohibiting driveways built on slopes equaling or exceeding 30%. The owners of the property have no other options for a driveway to their building site other than through this existing route. Disallowance of this variance would create an insurmountable hardship to the owners towards the construction of their personal residential property.



We trust you will concur with the Tesuque Fire Department, Santa Fe Public Works and the Department of Land Use that this driveway should be permissible as the access route of the owners to their future residence. The owners have no intention of deviating from the natural motif and architectural harmony of the existing surroundings.

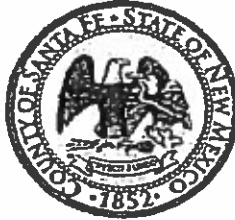
Respectfully Submitted,

Deborah Short, Managing Member
Vineyard Homes LLC

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Santa Fe County Fire Department Fire Prevention Division

Official Submittal Review

Date	1/9/14		
Project Name	Comeau, Dennis and Lynne		
Project Location	191 Santa Fe County Road 74, West of the trailer park		
Description	Single Family Residence	Case Manager	C. Menle
Applicant Name	Dennis and Lynne Comeau	County Case #	13-675
Applicant Address	5820 4 th St. NW Albuquerque, NM 87107	Fire District	Tesuque
Applicant Phone	505-235-5225 (Vineyard Homes)		
Review Type	Commercial <input type="checkbox"/>	Residential <input checked="" type="checkbox"/>	Sprinklers <input type="checkbox"/>
	Master Plan <input type="checkbox"/>	Preliminary <input type="checkbox"/>	Final <input checked="" type="checkbox"/>
	Wildland <input type="checkbox"/>	Variance <input type="checkbox"/>	
		Hydrant Acceptance <input type="checkbox"/>	
		Inspection <input type="checkbox"/>	Lot Split <input type="checkbox"/>
Project Status	Approved <input type="checkbox"/>	Approved with Conditions <input checked="" type="checkbox"/>	Denial <input type="checkbox"/>

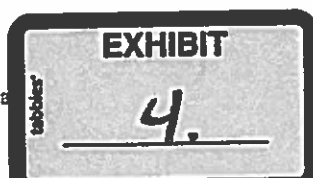
The Fire Prevention Division/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated (*Note underlined items*) :

Fire Department Access

Shall comply with Article 9 - Fire Department Access and Water Supply of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

▪ Roadways/Driveways

Shall comply with Article 9, Section 902 - Fire Department Access of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.



The proposed driveway and emergency vehicle turn around has been approved with the addition of a vehicle pull-out and the installation of an Automatic Fire Suppression System meeting NFPA 13D requirements. The roads shall meet the minimum County standards for fire apparatus access roads of a minimum 14' wide all-weather driving surface and an unobstructed vertical clearance of 13' 6" within this type of proposed development.

▪ **Street Signs/Rural Address**

Section 901.4.4 Premises Identification (1997 UFC) *Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property.*

Section 901.4.5 Street or Road Signs. (1997 UFC) *When required by the Chief, streets and roads shall be identified with approved signs.*

Properly assigned legible rural addresses shall be posted and maintained at the entrance(s) to each individual lot or building site within 72 hours of the commencement of the development process for each building.

▪ **Slope/Road Grade**

Section 902.2.2.6 Grade (1997 UFC) *The gradient for a fire apparatus access road shall not exceed the maximum approved.*

There is a portion of the driveway that cannot meet the 11% requirement, due to topography. The homeowner has agreed to install an Automatic Fire Suppression system meeting NFPA 13D requirements (per UFC Article 9, Section 9.2.2.1).

▪ **Restricted Access/Gates/Security Systems**

Section 902.4 Key Boxes. (1997 UFC) *When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or firefighting purposes, the chief is authorized to require a key box to be installed in an accessible location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the chief.*

To prevent the possibility of emergency responders being locked out, all access gates should be operable by means of a key or key switch, which is keyed to the Santa Fe County Emergency Access System (Knox Rapid Entry System). Details and information are available through the Fire Prevention office.

Automatic Fire Protection/Suppression

All Automatic Fire Protection systems shall be developed by a firm certified to perform and design such systems. Copies of sprinkler system design shall be submitted to the Fire Prevention Division for review and acceptance prior to construction. Systems will not be approved unless tested by the Santa Fe County Fire Department. Fire sprinklers systems shall meet all requirements of NFPA 13-D Standard for the Installation of Sprinkler Systems.

All sprinkler and alarm systems as required shall be tested and approved by the Santa Fe County Fire Department, prior to allowing any occupancy to take place. It shall be the responsibility of the installer and/or developer to notify the Fire Prevention Division when the system is ready for rough-in and final testing.

The requirement for residential fire protection sprinkler systems shall be recorded on the plat and in the covenants at the time of filing or as otherwise directed by the County Fire or Land Use Department.

Life Safety

Fire Protection requirements listed for this development have taken into consideration the hazard factors of potential occupancies as presented in the developer's proposed use list. Each and every individual structure of a private occupancy designation will be reviewed and must meet compliance with the Santa Fe County Fire Code (1997 Uniform Fire Code and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code, which have been adopted by the State of New Mexico and/or the County of Santa Fe.

General Requirements/Comments

▪ Inspections/Acceptance Tests

Shall comply with Article 1, Section 103.3.2 - New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

The developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

Prior to acceptance and upon completion of the permitted work, the Contractor/Owner shall call for and submit to a final inspection by this office for confirmation of compliance with the above requirements and applicable Codes.

▪ Permits

As required

Final Status

Recommendation for Final Development Plan approval with the above conditions applied.

Victoria DeVargas, Inspector

Victoria DeVargas
Code Enforcement Official

1/9/14
Date

Through: David Sperling, Chief
Buster Patty, Fire Marshal #

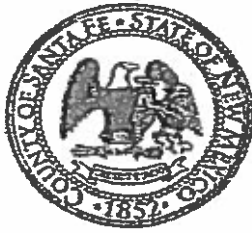
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Cy: C. Mente, Land Use
Applicant
District Chief
File

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Commissioner, District 1

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Robert A. Anaya
Commissioner, District 3



Liz Stefanics
Commissioner, District 4

Kathy Holian
Commissioner, District 5

Katherine Miller
County Manager

**PUBLIC WORKS DIVISION
MEMORANDUM**

Date: January 8, 2014

To: Caleb Mente, Plans Examiner, Land Use Department

From: Paul Kavanaugh, Engineering Associate Public Works
Johnny P. Baca, Traffic Manager Public Works

Re: Development Permit # 13-674 Comeau Driveway Construction.

The referenced project has been reviewed for compliance of the Land Development Code, and shall conform to roads and driveway requirements of **Article V (Subdivision Design Standards) and Section 8.1 (General Policy on Roads)**. The referenced project is located south of County Road 74 and East of Camino Tres Cruces within Section 20, Township 18 North, Range 10 East. The applicant is requesting an administrative approval to allow construction of a fourteen foot (14') driveway to a 44.512 acre parcel as shown as Tract 4-D, on Plat of Survey Dated June 18, 2009, and titled "LOT LINE ADJUSTMENT PLAT FOR RUDY ANAYA AND EDNA MAE ANAYA" Book 704 page 014.

Access:

The applicant is proposing to modify an existing fourteen (14') foot driveway accessing the 44.512 acre tract off County Road 74. Note 14) on the Plat of Survey titled "LOT LINE ADJUSTMENT PLAT FOR RUDY ANAYA AND EDNA MAE ANAYA" Book 704 page 014, states *New driveway/roadway access from County Road #74 is subject to approval by the County Public Works Director.*

Conclusion:

Prior to an approval from the Public Works Department the following shall be addressed;

- Applicant shall provide a proof that a Development Permit was obtained for the driveway prior to Public Works acknowledging that it is an existing permitted driveway, as stated note 14 of the plat.
- Applicant shall provide drainage plans that will address post development runoff onto County Road 74. Santa Fe County will not accept drainage liabilities created by storm water runoff created from a private property.

b. Buildable Areas. Each lot shall have a Buildable Area which shall meet the following criteria:

- 1) The natural slope is less than thirty percent (30%);
- 2) New lots shall contain an area suitable for building, including areas suitable for access corridor and utility sites and corridors which can be developed in accordance with these terrain management regulations and other requirements of the Code.
- 3) Meet all required setback standards for ridgetops, drainage ways, etc.
- 4) Contain a site with slope of less than fifteen percent (15%) and soils adequate by type and thickness in order for installation of a septic tank with leach field to be approved. In all other cases, alternative liquid waste disposal will be required.

c. No Build Areas

- 1) The following areas shall be set aside from use for development:
 - a) areas of rock outcropping, wetlands, arroyos and natural drainage ways;
 - b) A minimum of twenty-five feet (25') set back is required from the natural edge of streams, waterways, drainage ways or arroyos that may convey a discharge ("Q") of one hundred cubic feet per second (100 cfs) or more, generated by a design storm (100 year recurrence, 24 hour duration); the required setback may be increased if the Code Administrator determines that a clear hazard exists because of slope stability and hydrologic/hydraulic conditions. In evaluating the need to increase the setback, the Code Administrator shall consider property and channel slope, velocity of channel flow, hydraulic radius, roughness coefficient and sectional area of the particular drainage way. A requirement for increased setback imposed by the County shall not be interpreted to be an engineered development plan for development or encroachment to any FEMA designated 100 year floodplain or significant tributary thereof.
- c) Natural slopes of thirty percent (30%) or greater. Exceptions may be approved by the Code Administrator for :
 - i. access corridors, utility corridors and landscape areas proposed on natural slopes in excess of thirty percent (30%) that disturb no more than three (3) separate areas of no more than one thousand (1000) square feet each, provided the applicant demonstrates that no alternative development location is available; and
 - ii. arroyo crossings may be approved which disturb more than one thousand (1000) square feet in each instance provided that slope stability and hydrologic/hydraulic conditions are not changed from pre-development values; and
 - iii. siting of structures to preserve remaining traditional agricultural lands and uses.
 - iv. The applicant shall demonstrate that crossing such slopes has minimal impact to terrain or to visual quality and otherwise would conform to the purposes and standards set forth in Article III, Section 2.3 and Article VII, Section 3.4. See the Guidelines for Site Planning and Development in Santa Fe County.
- 2) No Build Areas may be used as part of the dedicated open space or may be included in lots as conservation easements or may be platted as common area within a subdivision or land division.

EXHIBIT

5.

VII - 18

2.5 Zoning

In connection with the review of an application for a development permit with respect to matters described in the New Mexico Statutes concerning zoning, the procedures concerning zoning matters set forth in the New Mexico Statutes, as amended from time to time, shall apply in addition to the review procedures provided in the Code. The time limits established in this Article II may be extended if required, in order to comply with the procedures concerning zoning matters.

2.6 Subdivisions

In connection with review of an application for a development permit with respect to matters described in the New Mexico Subdivision Act, as it may be amended from time to time, the procedures for review provided for in Article V of the Code and the New Mexico Subdivision Act shall apply in addition to the review procedures provided in this Article II of the Code. The time limits established in this Article II shall be extended if required in order to comply with the procedures concerning subdivision matters.

2.7 Other Requirements

The time limits set forth in this Article II shall be extended in order to comply with other provisions of the Code providing for time limits in connection with reviews and requirements under the Code.

SECTION 3 - VARIANCES**3.1 Proposed Development**

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking or property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

3.2 Variation or Modification

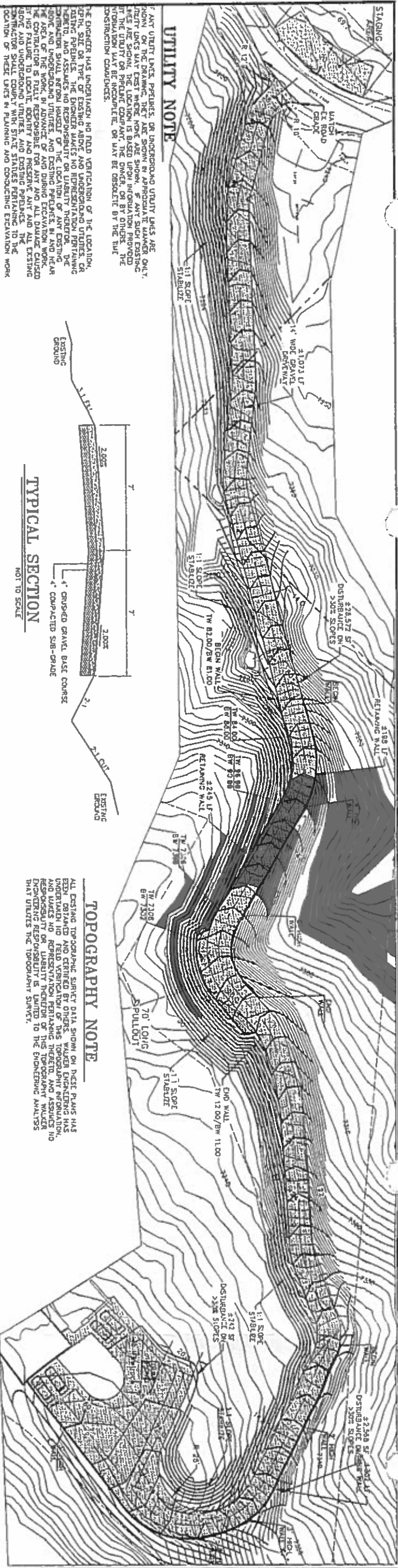
In no case shall any variation or modification be more than a minimum easing of the requirements.

3.3 Granting Variances and Modifications

In granting variances, and modifications, the Board may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

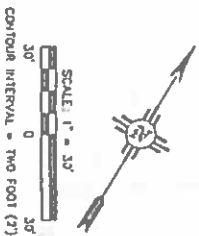
3.4 Height Variance in Airport Zones

All height variance requests for land located with approach, Transitional, Horizontal and Conical surfaces as described within Map #31 A, incorporated herein by reference, shall be reviewed for compliance with Federal Aviation Administration Regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the



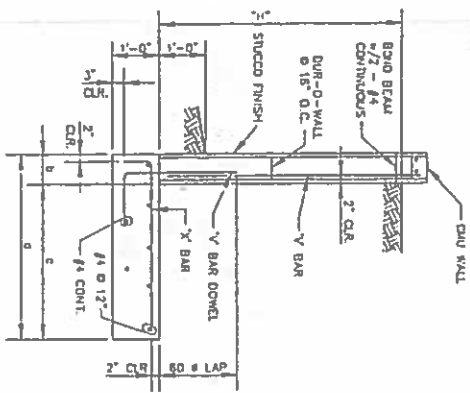
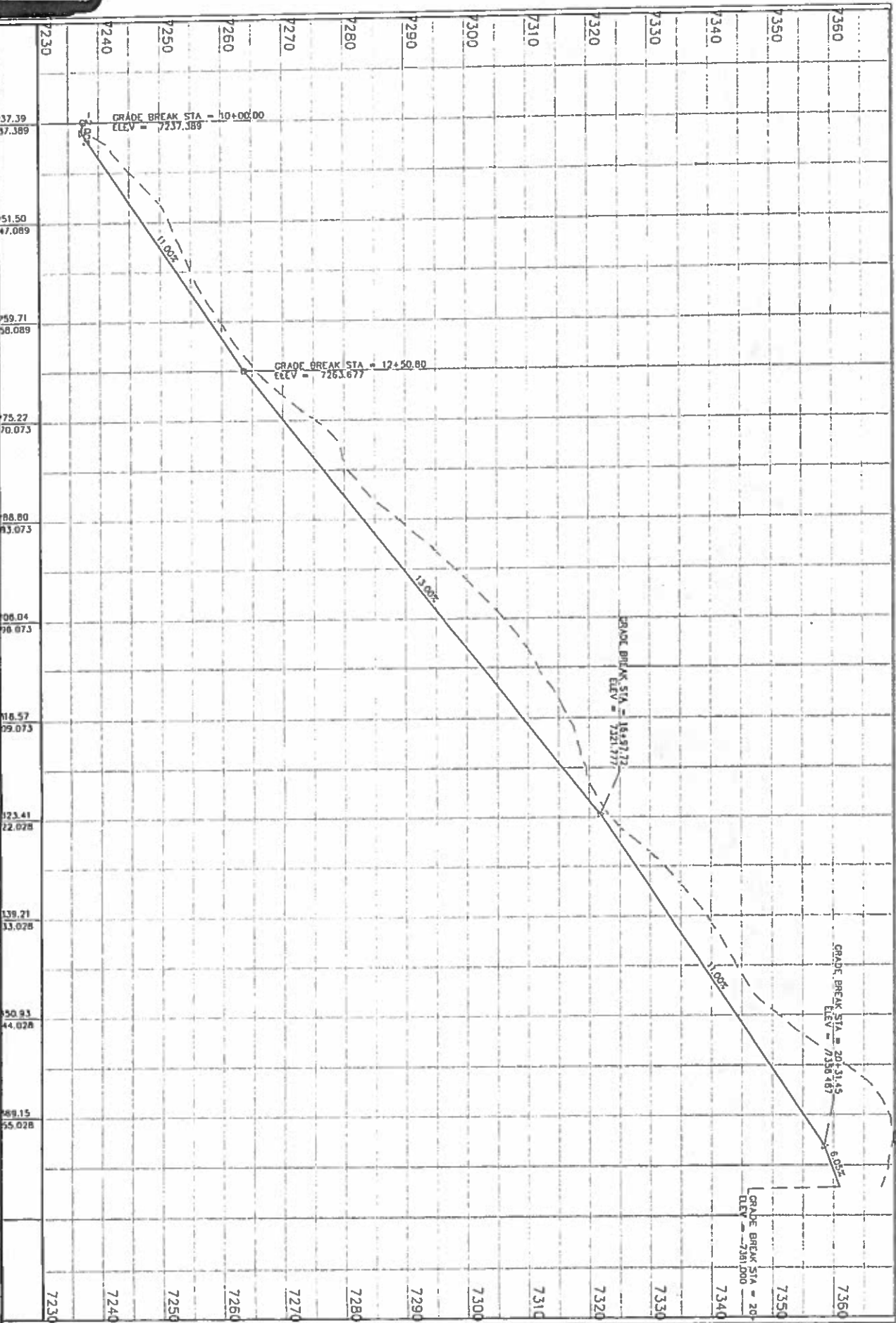
EARTHWORK

CUT: 8.120 CY
FILL: 4.812 CY (ESTIMATE)
CONSTRUCTION FACTOR NOT INCLUDED



STAKING NOTE

INFORMATION SHOWN IS FOR GRADING AND DRAINAGE ONLY AND IS NOT TO BE USED FOR STAKING PURPOSES. SEE SITE PLAN FOR ACTUAL LOCATION OF IMPROVEMENTS.



CUU CANTILEVER RETAINING WALL SCHEDULE					
H	a	b	c	V	X
8'-0" to 10'-0"	5'-0"	12"	4'-0"	5' @ 24"	5' @ 24"
10'-0" to 12'-0"	6'-0"	12"	4'-0"	5' @ 24"	5' @ 24"
12'-0" to 14'-0"	7'-0"	12"	4'-0"	5' @ 24"	5' @ 24"
14'-0" to 16'-0"	8'-0"	12"	4'-0"	5' @ 24"	5' @ 24"
16'-0" to 18'-0"	9'-0"	12"	4'-0"	5' @ 24"	5' @ 24"
18'-0" to 20'-0"	10'-0"	12"	4'-0"	5' @ 24"	5' @ 24"
20'-0" to 22'-0"	11'-0"	12"	4'-0"	5' @ 24"	5' @ 24"
22'-0" to 24'-0"	12'-0"	12"	4'-0"	5' @ 24"	5' @ 24"

UTILITY NOTE

IF ANY UTILITY LINES, PRELIMINARY OR UNDERGROUND UTILITY LINES ARE SHOWN ON THESE PLANS, THE ENGINEER HAS CONDUCTED A VISUAL SURVEY OF THE AREA AND HAS DETERMINED THAT THE UTILITY LINES ARE SHOWN. THE LOCATION IS BASED UPON INFORMATION PROVIDED BY THE UTILITY OR PRELIMINARY COMPANY, THE OWNER, OR BY OTHERS. THE ENGINEER HAS NO LIABILITY FOR THE LOCATION OF THE UTILITY LINES, OR FOR THE CONSTRUCTION OF THE UTILITY LINES.

THE ENGINEER HAS CONDUCTED NO FIELD VERIFICATION OF THE LOCATION, DEPTH, SIZE OR TYPE OF EXISTING ABOVE AND UNDERGROUND UTILITIES, OR EXISTING PRELIMINARIES. THE ENGINEER MAKES NO REPRESENTATION PERTAINING TO THE LOCATION OF EXISTING ABOVE AND UNDERGROUND UTILITIES, OR EXISTING PRELIMINARIES. THE CONTRACTOR SHALL INFORM HIMSELF OF THE LOCATION OF EXISTING ABOVE AND UNDERGROUND UTILITIES, AND EXISTING PRELIMINARIES, IN AND NEAR THE AREA OF THE WORK, IN ADVANCE OF ANY DURING EXCAVATION WORK. BY HIS FAILURE TO LOCATE, MARK, AND MAINTAIN THE LOCATION OF EXISTING ABOVE AND UNDERGROUND UTILITIES, AND EXISTING PRELIMINARIES, THE CONTRACTOR SHALL COMPLY WITH STATE STATUTES PERTAINING TO THE LOCATION OF THESE LINES IN PLANNING AND CONDUCTING EXCAVATION WORK.

TOPOGRAPHY NOTE

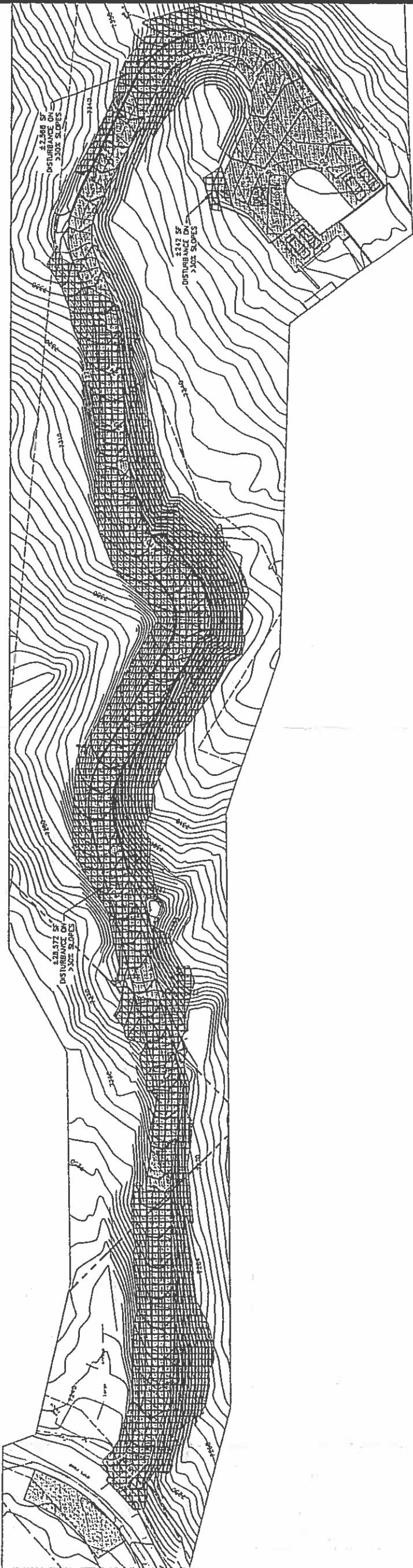
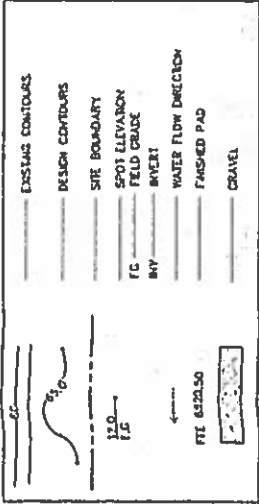
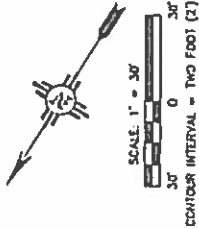
ALL EXISTING TOPOGRAPHIC SURVEY DATA SHOWN ON THESE PLANS HAS BEEN VERIFIED BY THE ENGINEER. THE ENGINEER HAS CONDUCTED A VISUAL SURVEY OF THE AREA AND HAS DETERMINED THAT THE TOPOGRAPHIC DATA IS ACCURATE. THE ENGINEER HAS NO LIABILITY FOR THE TOPOGRAPHIC DATA, OR FOR THE CONSTRUCTION OF THE TOPOGRAPHIC DATA.

STAKING NOTE

INFORMATION SHOWN IS FOR GRADING AND DRAINAGE ONLY AND IS NOT TO BE USED FOR STAKING PURPOSES. SEE SITE PLAN FOR ACTUAL LOCATION OF IMPROVEMENTS.

DISTURBANCE

DRIVEWAY DISTURBANCE ON 300' SLOPES: 31,329 SF



PROJECT:			
FILE:	140 GRADE	DRAWN BY:	P.L.B.
DATE:	8/8/2013	CHECKED BY:	M.E.R.
SCALE:	AS NOTED		
REVISION:			
No.	REVISION	BY	DATE

W. E. Walker Engineering
Civil Engineering • Water Resources • Traffic Engineering
805 Camino Sierra Vista, Santa Fe, NM 87501
505-820-7200
FAX 505-820-3530
E-MAIL: cwalker@walkereng.net

EXISTING SLOPE ANALYSIS
TESQUERE HOUSE

COUNTY REVIEW	
DEPARTMENT	SIGN-OFF DATE
SF COUNTY WATER RESOURCES DEPT.	
SF COUNTY FIRE DEPARTMENT	
COUNTY USE ONLY	

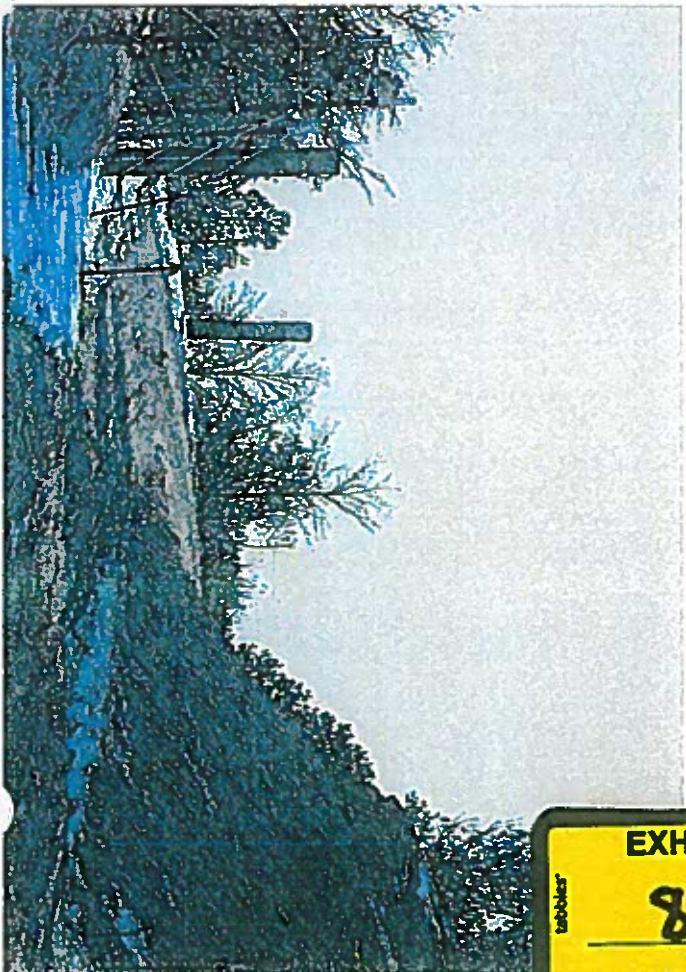
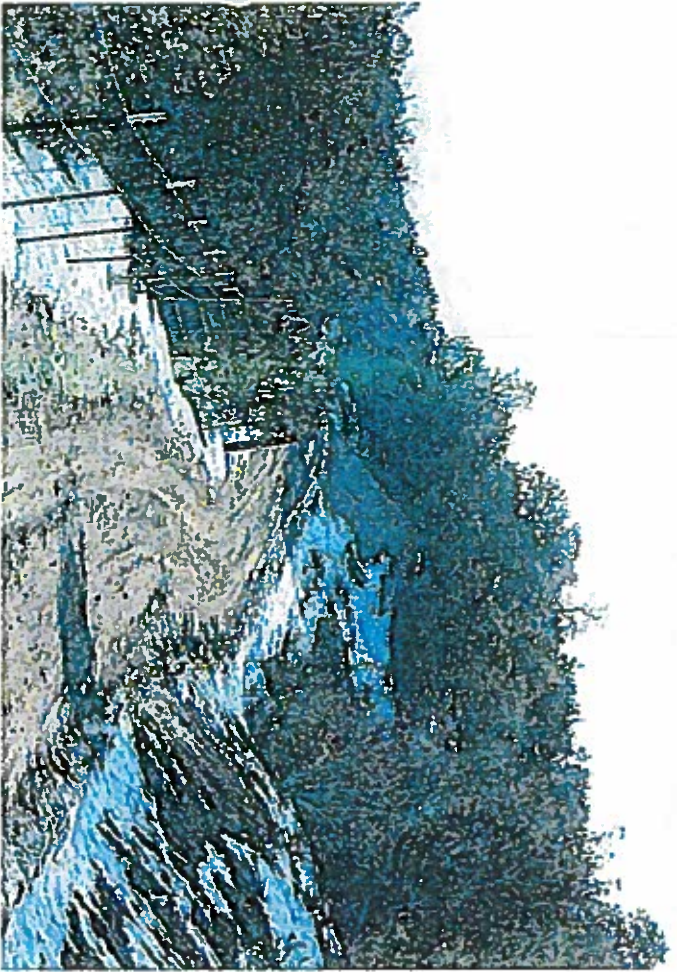
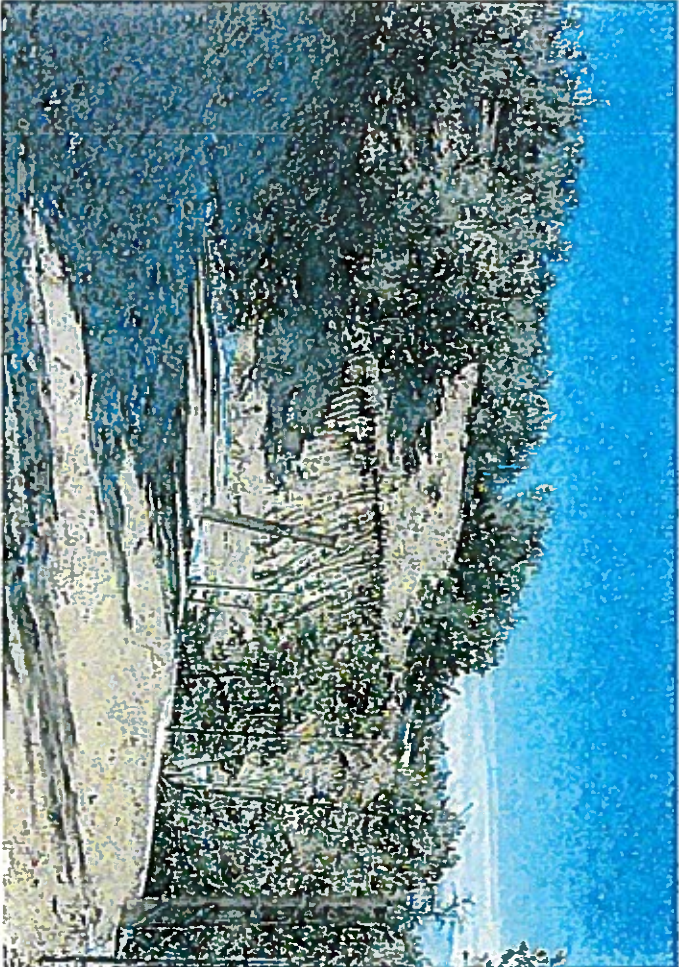
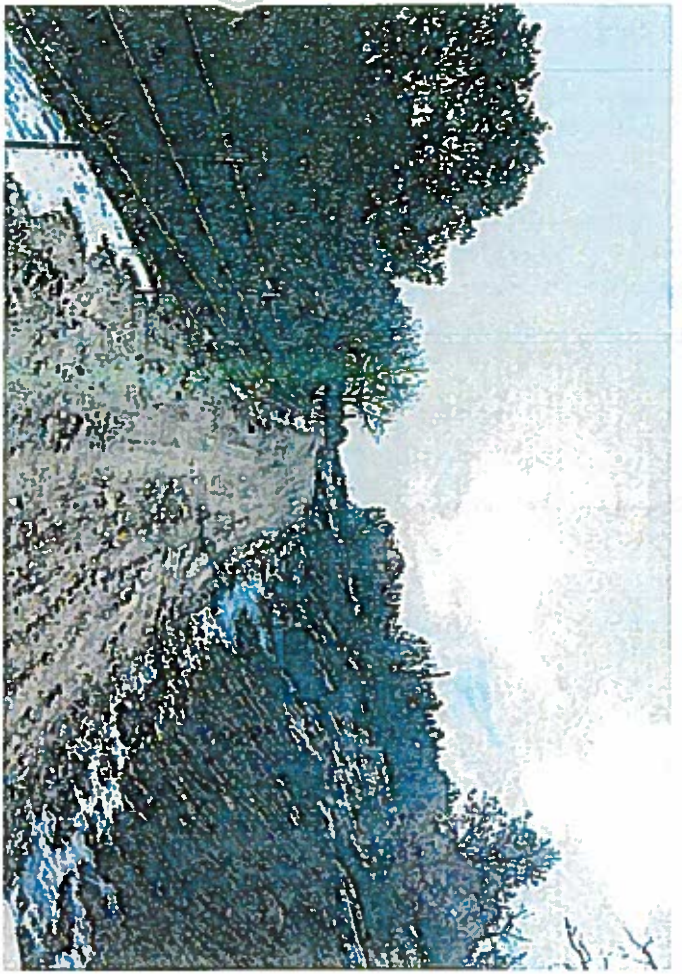
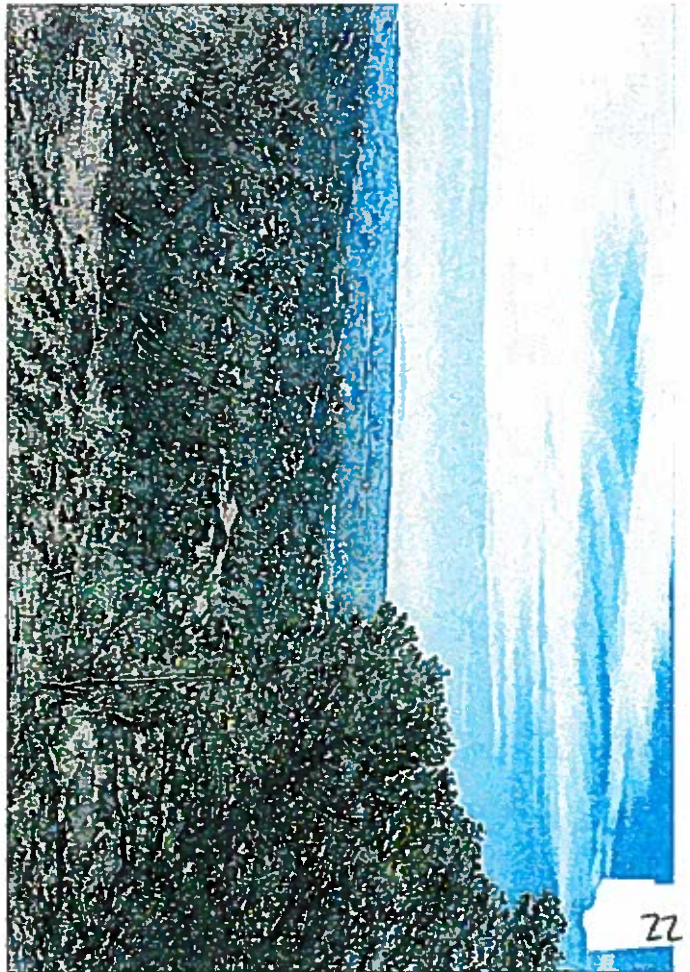


EXHIBIT
8







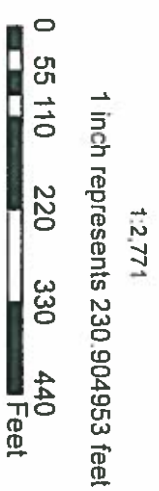
Legend

- ROADS
- DRIVEWAYS
- Parcels

tabbles

EXHIBIT

9.



This information is for reference only.
Santa Fe County assumes no liability for
errors associated with the use of these data.
User are solely responsible for
confirming data accuracy.

2008 Orthophotography
2 FOOT CONTOURS

John F. Lovato

From: Dennis Comeau <shoedesignstudio@gmail.com>
Sent: Wednesday, March 12, 2014 4:17 PM
To: John F. Lovato
Cc: Deb Short
Subject: Driveway

Hi John,

I just wanted to confirm to you that I have accepted a resolution from Henry Carey to use part of my driveway for him to access his property.

Please call or email me if you have any questions.

Regards,

Dennis Comeau

Dennis & Lynne Comeau
p.o. box 202
tesuque, nm 87574
c 505-946-7901
italy cell +39-348-1605865
dlcomeau@me.com
ranchomaremma@me.com



March 12, 2014

P.O. Box 487
Santa Fe, NM. 87504

Mr. John Lovato
Santa Fe County
Santa Fe, NM

RE: Comeau Variance Request

Dear John:

I wanted to let you know that the Comeau's and I have come to an agreement regarding a shared driveway. I attach a drawing of the portion of the driveway that will be shared and the connector to my easement, about half way up the hill. I am having this surveyed by Scott Yaeger immediately.

I do not intend to utilize this driveway or the connector to my easement at any time in the immediate future. The Comeau's and I have agreed that I will bear the costs of seeking county approval and building an upgraded driveway to accommodate more than one homesite at the time I do decide to utilize the driveway.

The Comeau's have also agreed not to push any overburden onto my easement at the point where their driveway and my easement intersect.

I am pleased with this result and feel that the landscape will be spared the impact of two parallel driveways being constructed on such a steep hillside. I, therefore, waive my objections to the Comeau's request for a variance to improve their road and would like to go on record as supporting their proposal.

I would also like to express my appreciation for your and the County's role in the amicable resolution of this issue.

Sincerely,



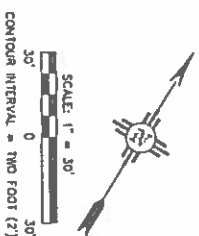
Henry H. Carey
President
Land Assets FPL

IF ANY LINES, PRESENT OR UNDERGOING, LINES ARE SHOWN, ON THE DRAWING, THEY ARE SHOWN IN APPROXIMATELY BLANKET OR Y-
LINES THAT EXIST WHERE NONE ARE SHOWN. IF ANY SUCH EXISTING
LINES ARE SHOWN, THE LOCATION IS BASED UPON INFORMATION PROVIDED
BY THE UNIT OR SUPPLEMENT COMPANY, THE OWNER, OR BY OTHERS. THE
CONSTRUCTION MAY BE INCOMPLETE, OR MAY BE OBSOLETE BY THE TIME
CONSTRUCTION COMMENCES.

ALL EXISTING TOPOGRAPHIC SURVEY DATA SHOWN ON THESE PLANS HAS BEEN OBTAINED AND CERTIFIED BY OTHERS. WILDER ENGINEERING HAS UNDERTAKEN NO FIELD RECONSTRUCTION OF THIS TOPOGRAPHY INFORMATION, AND MAKES NO REPRESENTATION REGARDING THE ACCURACY AND ASSURES NO RESPONSIBILITY OR LIABILITY THEREOF. THIS TOPOGRAPHY, WILDER ENGINEERING RESPONSIBILITY IS LIMITED TO THE ENGINEERING ANALYSIS THAT UTILIZES THE TOPOGRAPHY SURVEY.

INFORMATION SHOWN IS FOR GRADING AND DRAINAGE ONLY AND IS NOT TO BE USED FOR STATIC PURPOSES. SEE SITE PLAN FOR ACTUAL LOCATION OF IMPROVEMENTS.

POWERTY DISTURBANCE ON $>30\%$ SLOPES: 31,320 SF



120.0
F.C.

←

100'

EXISTING CONTOURS

DESIGN CONTOURS

SITE BOUNDARY

SPOT ELEVATION

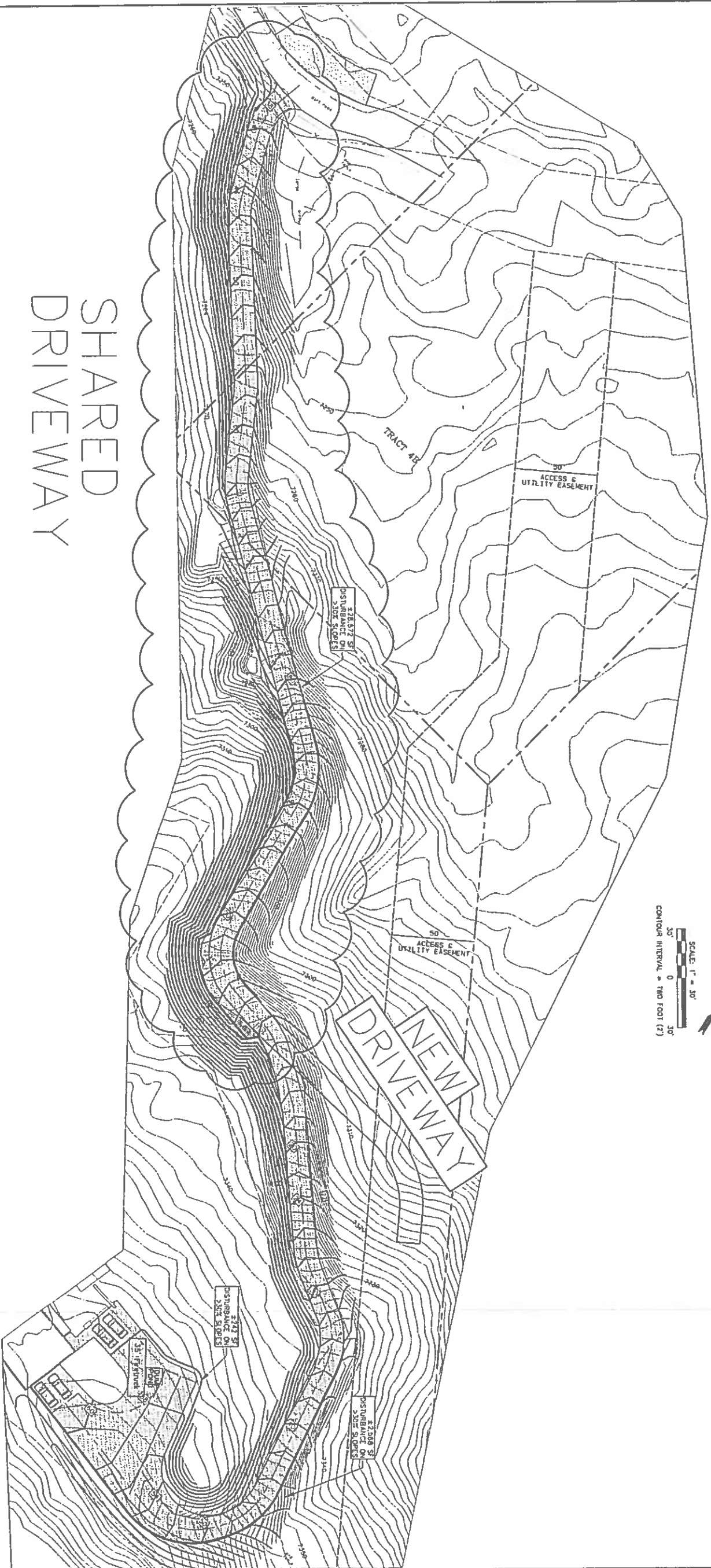
FIELD GRADE

INVERT

WATER FLOW DIRECTION

FINISHED PAD

GRAND



COUNTY REVIEW

DEPARTMENT	SIGN-OFF	DATE
SF COUNTY WATER RESOURCES DEPT.		
SF COUNTY FIRE DEPARTMENT		

COUNTY USE ONLY

PROJECT:

TESUQUE HOUSE

SHEET TITLE:

EXISTING
SLOPE ANALYSIS

No.	REVISION	BY	APP.	DATE

PROJECT: 15-140

DESIGNED BY: P.L.B.

FILE: 140 GRADE

DRAWN BY: P.L.B.

DATE: 8/8/2013

CHECKED BY: M.E.W.

SCALE:

AS NOTED

Civil Engineering • Water Resources • Traffic Engineering

W • E Walker Engineering

905 Camino Sierra Vista, • Santa Fe, NM 87501

505-820-7990

FAX 505-820-3539

E-MAIL civil@walkerengineering.net

C-1

SHEET NO.



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: March 25, 2014

TO: Board of County Commissioners

FROM: Wayne Dalton, Building and Development Services Supervisor *WD*

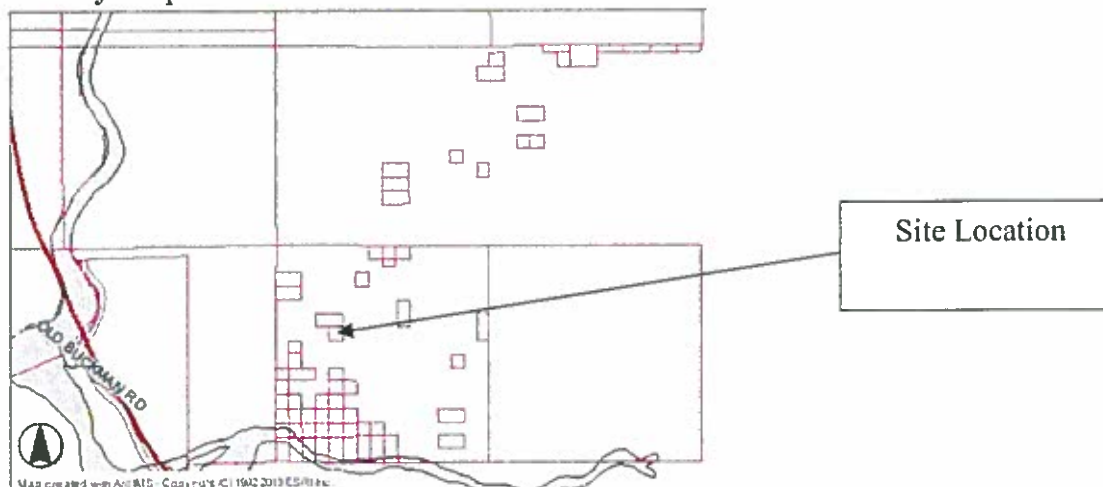
VIA: Katherine Miller, County Manager
Penny Ellis-Green, Growth Management Director *PEG*
Vicki Lucero, Building & Development Services Manager *VL*

FILE REF.: CDRC CASE # V 14-5000 Lee Pack Variance.

ISSUE:

Lee Pack, Applicant, requests a variance of Article V, § 8.1.3 (Legal Access) and Article V, § 8.2.1c (Local Roads) of the Land Development Code to allow the construction of a Residence on 2.5 acres. Both roads that service the property (Old Buckman Road and Kalitaya Way) do not meet the specifications of Local lane, place or cul-de-sac roads and do not have adequate drainage control necessary to insure adequate access for emergency vehicles. The property is located at 111 Kalitaya Way, off Old Buckman Road, within Section 31, Township 19 North, Range 8 East, (Commission District 1).

Vicinity Map:



REQUEST SUMMARY:

The Applicant requests a variance to allow the construction of a residence on property consisting of 2.5 acres. The subject property is part of a subdivision created in the 1940's with the US Government's "Small Parcel Act" which assisted veterans in acquiring their own property. The property has a Land Patent from the US Government dated from 1962, and is recognized as a legal lot of record.

The property is accessed by Old Buckman Road (County Maintained Road on BLM Land) and Kalitaya Way (Public Road on BLM Land). The portion of Old Buckman Road that services the property is approximately 9 miles in length and ranges from 20 to 24 feet in width and is a dirt/sand driving surface. The portion of Kalitaya Way that services the property is approximately 1 mile in length and ranges from 8 to 10 feet in width and is a dirt driving surface. Both Old Buckman Road and Kalitaya Way do not meet the specifications of Local lane, place or cul-de-sac roads, which require two ten foot driving lanes and six inches of base course. Old Buckman Road and Kalitaya Way do not have adequate drainage control necessary to insure adequate access for emergency vehicles.

The Applicant states he is not in a position to upgrade 9 miles of Old Buckman Road to County standards, nor the 1 mile of Kalitaya Way. The Applicant also states he and another property owner in the area have had some discussions on improving Kalitaya Way and are intending to do some light tractor work, but cannot upgrade the road to County standards.

The Applicant intends to construct a residence of all metal construction, fiberglass and drywall. No wood except for cabinetry, handrails etc. The Applicant may also be required to incorporate certain items into his building and site plans to substantially enhance the protection against fire danger. These improvements may include a turnaround on the property, a water storage tank, sprinkler system, a vegetation management plan, and compliance with the Urban Wild Land Interface Code for building materials for any proposed structures on the property (**To be determined by Fire Prevention**).

On May 14, 2013, the BCC granted a variance for Patrick Christopher and Marga Friberg (CDRC Case # V 13-5050) for the construction of a residence on property totaling 15.3 acres which received access from these same roads.

On February 20, 2014, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of the Applicant's request by a 6-0 vote (Minutes Attached as Exhibit 1).

This Application was submitted on January 6, 2014.

Growth Management staff have reviewed this Application for compliance with pertinent Code requirements and finds the project is not in compliance with County criteria for this type of request.

APPROVAL SOUGHT:

Approval for the construction of a residence on 2.5 acres, which due to site conditions would require a variance from Article V, § 8.1.3 (Legal Access) and Article V, § 8.2.1c (Local Roads) of the Land Development Code.

VARIANCES: Article V, § 8.1.3 states: "Legal access shall be provided to each lot and each lot must directly access a road constructed to meet the requirements of Section 8.2 of the Code. Parcels to be accessed via a driveway easement shall have a twenty (20) foot all weather driving surface, grade of not more than 11%, and drainage control as necessary to insure adequate access for emergency vehicles."

Article V, § 8.2.1c (Local Roads) states: "A local lane, place or cul-de-sac road serves 0 to 30 dwelling units or lots and carries an average daily traffic volume of 0 to 300 vehicles with two (2), ten (10) foot driving lanes with a minimum right-of-way of fifty (50) feet. Local lanes, places and cul-de-sac roads shall be constructed with the same sub-grade and base course specifications as the sub-collector road."

Article II, § 3 (Variances) of the County Code states: "Where in the case of proposed development, it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance." This Section goes on to state "In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified." (**The variance criteria does not consider financial or medical reasons as extraordinary hardships**).

GROWTH MANAGEMENT AREA: El Centro, SDA-3

HYDROLOGIC ZONE:

Basin Fringe Hydrologic Zone, minimum lot size per Code is 50 acres per dwelling unit. Lot size can be reduced to 12.5 acres per dwelling unit with signed and recorded water restrictions. The subject lot was created in 1962.

ACCESS:

Old Buckman Road and Kalitaya Way do not meet the specifications of Local lane, place or cul-de-sac roads, which require two ten foot driving lanes and six inches of base course. Old Buckman Road and Kalitaya Way do not have adequate drainage control necessary to insure adequate access for emergency vehicles. Does not comply with minimum Code criteria.

FIRE PROTECTION:

Pojoaque Fire District.

WATER SUPPLY:

Trucked Water/Water Harvesting

LIQUID WASTE: Conventional Septic System

AGENCY REVIEW:	<u>Agency</u>	<u>Recommendation</u>
	County Fire	Conditional Approval

STAFF RECOMMENDATION: Denial of a variance from Article V, § 8.1.3 (Legal Access) and Article V, § 8.2.1c (Local Roads) of the Land Development Code.

If the decision of the BCC is to approve the Applicant's request for variances, staff recommends imposition of the following conditions:

1. Water use shall be restricted to 0.25 acre foot per year. A water meter shall be installed for the proposed home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the construction of the residence. (As per Article II, § 2).
3. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application (As per 1997 Fire Code and 1997 Life Safety Code).

EXHIBITS:

1. February 20, 2014, CDRC Minutes
2. Letter of request
3. Article V, § 8.2.1c (Local Roads)
4. Article V, § 8.1.3 (Legal Access)
5. Article II, § 3 (Variances)
6. Site Photographs
7. Aerial of Site and Surrounding Area
8. Fire Prevention Letter

- VII. F. CDRC CASE # V 14-5000 Lee Pack Variance. Lee Pack, Applicant, requests a variance of Article V, § 8.1.3 (Legal Access) and Article V, § 8.2.1c (Local Roads) of the Land Development Code to allow the construction of a Residence on 2.5 acres. Both roads that service the property (Old Buckman Road and Kalitaya Way) do not meet the specifications of local lane, place or cul-de-sac roads and do not have adequate drainage control necessary to insure adequate access for emergency vehicles. The property is located at 111 Kalitaya Way, off Old Buckman Road, within Section 31, Township 19 North, Range 8 East, (Commission District 1).

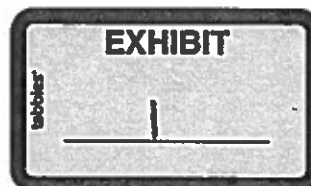
Mr. Dalton read the case caption and gave the staff report staff report as follows:

"The subject property is part of a subdivision created in the 1940's with the US Government's "Small Parcel Act" which assisted veterans in acquiring their own property. The property has a Land Patent from the US Government dated from 1962, and is recognized as a legal lot of record.

"The property is accessed by Old Buckman Road which is a County maintained road on BLM Land and Kalitaya Way which is a public road on BLM Land. The portion of Old Buckman Road that services the property is approximately nine miles in length and ranges from 20 to 24 feet in width and is a dirt/sand driving surface. The portion of Kalitaya Way that services the property is approximately one mile in length and ranges from 8 to 10 feet in width and is a dirt driving surface. Both Old Buckman Road and Kalitaya Way do not meet the specifications of local lane, place or cul-de-sac roads, which require two ten-foot driving lanes and six inches of basecourse. Old Buckman Road and Kalitaya Way do not have adequate drainage control necessary to insure adequate access for emergency vehicles.

"The Applicant states he is not in a position to upgrade nine miles of Old Buckman Road to County standards, nor the 1 mile of Kalitaya Way. The Applicant also states he and another property owner in the area have had some discussions on improving Kalitaya Way and are intending to do some light tractor work, but cannot upgrade the road to County standards.

"The Applicant intends to construct a residence of all metal construction, fiberglass and drywall. No wood except for cabinetry, handrails etc. The Applicant may also be required to incorporate certain items into his building plans to substantially enhance the protection against fire danger. These improvements may include a turnaround on the property, a water storage tank, sprinkler system, a vegetation management plan, and compliance with the Urban Wildland Interface Code for building materials for any proposed structures on the property, and that's to be determined by the Fire Prevention Division.



"On May 14, 2013, the BCC granted a variance for Patrick Christopher and Marga Friberg which was CDRC Case # V 13-5050, for the construction of a residence on property totaling 15.3 acres which received access from these same roads."

Mr. Dalton stated staff was recommending Denial of a variance from Article V, § 8.1.3 (Legal Access) and Article V, § 8.2.1c (Local Roads) of the Land Development Code. If the decision of the CDRC is to recommend approval of the Applicant's request for variances, staff recommends imposition of the following conditions:

[The conditions are as follows:]

1. Water use shall be restricted to 0.25 acre-foot per year. A water meter shall be installed for the proposed home. Annual water meter readings shall be submitted to the Land Use Administrator by January 1st of each year. Water restrictions shall be recorded in the County Clerk's Office (As per Article III, § 10.2.2 and Ordinance 2002-13).
2. The Applicant must obtain a development permit from the Building and Development Services Department for the construction of the residence. (As per Article II, § 2).
3. The Applicant shall comply with all Fire Prevention Division requirements at time of Development Permit Application (As per 1997 Fire Code and 1997 Life Safety Code).

Applicant Lee Pack was placed under oath and stated he purchased 2.5 acres one mile off Old Buckman Road, which is used to access pumping stations for the City's water supply. Upgrading nine miles of Old Buckman is beyond his capacity, although he and another owner intend to do some light tractor work. He will have a metal house, a 5,000-gallon water tank. The home will be solarized and off the grid.

Member Katz asked if he purchased the property from Mr. Christopher and Mr. Pack said he did and it is closer in than Mr. Christopher's property.

Duly sworn, Patrick Christopher, owner of the neighboring property, stated Mr. Pack has lived in Alaska and understands the rigors of living far out. He has sensible ideas for the property and he would be happy to have him as a neighbor.

Member Anaya asked if the Christopher case was recommended for denial by the CDRC and Mr. Dalton said it was, but it was approved by the BCC.

Member Katz moved to approve Case #V 14-5400 with staff conditions. Member Anaya seconded the motion passed by unanimous [6-0] voice vote.

[The Committee recessed from 6:15 to 6:25.]

Application for Variance, Santa Fe County: Letter of Intent

Applicant: Lee D. Pack

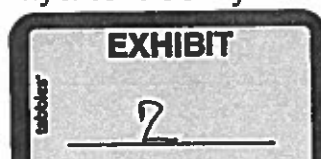
The applicant Lee Pack is under contract to purchase a 2.5 acre parcel from current owners, Patrick Christopher and Marga Friberg with the intention of building an off grid, sustainable home. The subject lot was part of a Federal project designed for the purpose of providing Veterans affordable land, known as the 'Small Parcel Act. The project sold few lots and was retired. All unsold lots reverted to the BLM. My father, Alvin D. Pack, BLM, Chief of Lands and Recreation for the state of New Mexico (1985-1995) has confirmed that this was a BLM project and the subsequent BLM easement is valid. In addition my brother Russell Pack, a Federally trained cadastral surveyor by the Federal Government has visited the plot and confirmed the accuracy of the plot and Stuart title has issued a binder. These lots are legal and of record with Santa Fe County.

The historic road from Espanola to Santa Fe was the route that is now known as Kalitaya. This is the road from which the BLM has granted easement. Maps from archives indicate this has existed from at least the early 1900's. Access to 502 would be available and much easier, however the San Ildefonso Pueblo prohibits.

The property owners (to which I am in contract) have expended excellent effort and diligence, working with county staff. They have been granted a variance for fire access, even further down Kalitaya. I would respectfully ask that this be considered precedent.

Fire Captian Patty has indicated that Old Buckman Road does not meet County emergency access standards, even though it is county maintained. Old Buckman is nine tenths of the access. Kalitaya represents approximately one mile of the total ten. In dry conditions the property can easily be accessed by two wheel drive truck. In wet and snow conditions a 4x4 is required.

Myself and Mr. Christopher have had discussions on improving Kalitaya and are intending to do some light tractor work. It is beyond our means to bring either Buckman or Kalitaya to County roadway standards.



To allay concerns of the council I have listed the items I am capable of putting into place to reduce fire danger:

- 1) The proposed home is all metal construction, fiberglass and drywall. No wood excepting cabinetry, handrails etc.
- 2) The lot is lightly treed, small juniper primarily.
- 3) 5000 gallon on site water storage
- 4) Creating a road maintenance agreement to maintain Kalitaya for year around access.
- 5) I am willing to sign an agreement with Santa Fe County accepting limited emergency response services.

I have experience living off-grid and own several 4x4 vehicles. I have experience in construction, automotive repair and am a master welder. I fully understand the preparedness required to live in a remote location. I hope the Commission will grant variance to build on this beautiful property.

Thank You for your consideration,

Respectfully,

Lee D. Pack

which schedule is on file at the Office of the Public Works Director and the Land Use Office.

8.1.12 Construction of roads or other required improvements may be phased according to a schedule that is part of an approved master or development plan.

8.1.13 Local roads shall be laid out so that their use by through traffic will be discouraged.

8.2 Road Design

Construction and design standards shall be according to sound engineering practice as follows:

8.2.1 Classification of Highways, Streets and Roads

8.2.1a Arterial Roads and Highways

A major arterial road or highway has from two to six driving lanes, may be divided with a median, and has sufficient additional right-of-way to provide for turning lanes and additional width at major intersections. Major arterials have an average daily traffic of more than 5000 vehicles and a minimum right-of-way of one hundred feet (100'). A minor arterial road has an average daily traffic of 2000 to 5000 vehicles, serves 200 to 1000 dwelling units or lots, and has a minimum right-of-way of sixty six (66) feet. Asphalt paving is required for major arterials at a minimum depth of five (5) inches and for minor arterials to a minimum depth of four (4) inches. Separated driving lanes or park-ways are encouraged. See Appendices A, B.1, B.2 and B.3 for further detail.

8.2.1b Collector Roads

A collector road has two (2) twelve (12) foot driving lanes. It serves 61 to 199 dwelling units or lots and has an average daily traffic volume of 601 to 1999 vehicles and a minimum right-of-way of fifty (50) feet; paving shall achieve a minimum depth of three (3) inches. See Appendices A, B.1, B.2 and B.3.

→ 8.2.1c Local Roads

A local subcollector road has two (2) twelve (12) foot driving lanes, serves 31 to 60 dwelling units or lots, and carries an average daily traffic volume of 301 to 600 vehicles with a minimum right-of-way of fifty (50) feet. A local subcollector road has a six (6) inch minimum surface thickness of crushed gravel base course material, provided it can be shown that such minimum thickness is adequate based on subgrade soil conditions; a plasticity index of eight (8) to twelve percent (12%) shall be provided. A local lane, place or cul-de-sac road serves 0 to 30 dwelling units or lots and carries an average daily traffic volume of 0 to 300 vehicles with two (2), ten (10) foot driving lanes with a minimum right-of-way of fifty (50) feet. Local lanes, places and cul-de-sac roads shall be constructed with the same sub-grade and base course specifications as the subcollector road. See also Appendices A, B.1, B.2 and B-3 and Section 8.3 of this Article.

8.2.1d Cul-de-sacs

Cul-de-sacs (dead end roads) shall not be longer than five hundred (500) feet. At the closed end there shall be a turn around having a minimum driving surface radius of at least forty-two (42) feet for roads under 250 feet long and of at least fifty (50) feet for roads 250 feet and longer. A suitable alternative, such as a hammerhead turn around, may be acceptable if approved by the Code Administrator and the Fire Marshal. All turn around areas shall be designed to protect existing vegetation and steep terrain. There shall be a minimum right-of-

EXHIBIT

3

V - 24

8.1.2 The Santa Fe County Master Plan For Roads

- a. Pursuant to 3-19-9 N.M.S.A., 1978, the Santa Fe County Master Plan for Roads establishes the general location of existing and proposed highway and arterial roads for the purpose of assuring a coordinated system of roads in Santa Fe County.
- b. The Santa Fe County Master Plan for Roads may be amended by resolution from time to time to accommodate changing or changed conditions.

→ 8.1.3 Legal access shall be provided to each lot and each lot must directly access a road constructed to meet the requirements of Section 8.2 of this Article. Parcels to be accessed via a driveway easement shall have a twenty (20) foot all weather driving surface, grade of not more than 11%, and drainage control as necessary to insure adequate access for emergency vehicles.

8.1.4 Dead end roads may not serve more than thirty (30) dwelling units, except that the Code Administrator with the concurrence of the Fire Marshal may approve the development of more than thirty (30) lots on a dead end road. The Code Administrator may require a second access for any development with fewer than thirty (30) dwelling units where issues of public health, safety and welfare exists.

8.1.5 Coordination of Roads With Surrounding Property

- a. The arrangement of roads in a development shall provide for the continuation or appropriate projection of existing or proposed highway or arterial roads in surrounding areas according to the Santa Fe County Master Plan for Roads, and shall provide reasonable means of ingress and egress to surrounding property.
- b. Where land is subdivided into large tracts or where there is a potential for further subdivision or development of subsequent phases exists, the proposed development shall be designed to provide for a coordinated road system for the entire tract.
- c. Where it is in the public interest to establish a right-of-way or access to property which adjoins a proposed development, the right-of-way shall be extended to the boundary of the property which is the subject of a development application. The right-of-way shall either be dedicated to the County or granted to the Owner's Association, subject to a conditional dedication governed by Article V, Section 8.1.9. Such right-of-way shall be designated on the master or phase development plan and on the plat as a public access.

8.1.6 Access to highways and arterials; buffering requirements

- a. Where a proposed subdivision contains lots abutting or adjacent to an arterial or highway, it shall be planned so as to avoid having lots having frontage on said thoroughfares.
- b. The subdivision shall be laid out to have a minimum number of intersections with arterials or highways, and where appropriate, shall provide at least two separate points of ingress and egress to assure adequate access, and shall be designed for all weather conditions. Driveways from lots shall access local roads and may access collector roads on a limited basis as approved by the County Development Review Committee.
- c. Where the subdivision is traversed by or is adjacent to a state or federal highway, and in addition to these regulations, the subdivision must satisfy the New Mexico State Highway Department Regulations Covering Design and Construction of Driveways on Non-Controlled Access Highways in New Mexico, a copy of which is on file in the office of the Code Administrator for public inspection.
- d. Where a subdivision borders on or contains a railroad right-of-way or a limited access highway right-of-way, a parallel road or frontage road may be required at a distance suitable for the appropriate use of the intervening land. Such distances shall also be

EXHIBIT

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2.5 Zoning

In connection with the review of an application for a development permit with respect to matters described in the New Mexico Statutes concerning zoning, the procedures concerning zoning matters set forth in the New Mexico Statutes, as amended from time to time, shall apply in addition to the review procedures provided in the Code. The time limits established in this Article II may be extended if required, in order to comply with the procedures concerning zoning matters.

2.6 Subdivisions

In connection with review of an application for a development permit with respect to matters described in the New Mexico Subdivision Act, as it may be amended from time to time, the procedures for review provided for in Article V of the Code and the New Mexico Subdivision Act shall apply in addition to the review procedures provided in this Article II of the Code. The time limits established in this Article II shall be extended if required in order to comply with the procedures concerning subdivision matters.

2.7 Other Requirements

The time limits set forth in this Article II shall be extended in order to comply with other provisions of the Code providing for time limits in connection with reviews and requirements under the Code.

→ SECTION 3 - VARIANCES

3.1 Proposed Development

Where in the case of proposed development, it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions or that these conditions would result in inhibiting the achievement of the purposes of the Code, an applicant may file a written request for a variance. A Development Review Committee may recommend to the Board and the Board may vary, modify or waive the requirements of the Code and upon adequate proof that compliance with Code provision at issue will result in an arbitrary and unreasonable taking of property or exact hardship, and proof that a variance from the Code will not result in conditions injurious to health or safety. In arriving at its determination, the Development Review Committee and the Board shall carefully consider the opinions of any agency requested to review and comment on the variance request. In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

3.2 Variation or Modification

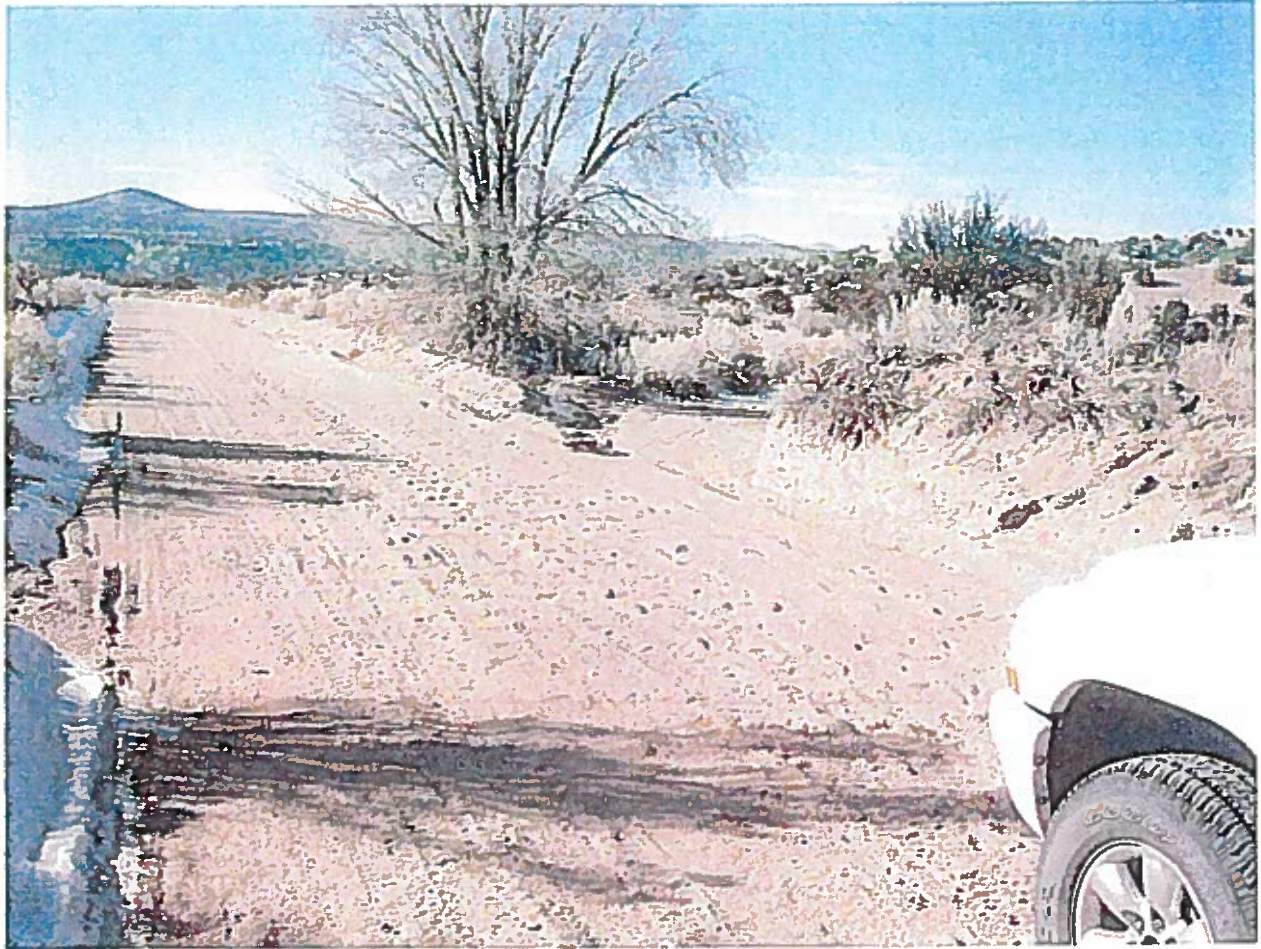
In no case shall any variation or modification be more than a minimum easing of the requirements.

3.3 Granting Variances and Modifications

In granting variances, and modifications, the Board may require such conditions as will, in its judgment, secure substantially the objectives of the requirements so varied or modified.

3.4 Height Variance in Airport Zones

All height variance requests for land located with approach, Transitional, Horizontal and Conical surfaces as described within Map #31 A, incorporated herein by reference, shall be reviewed for compliance with Federal Aviation Administration Regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the

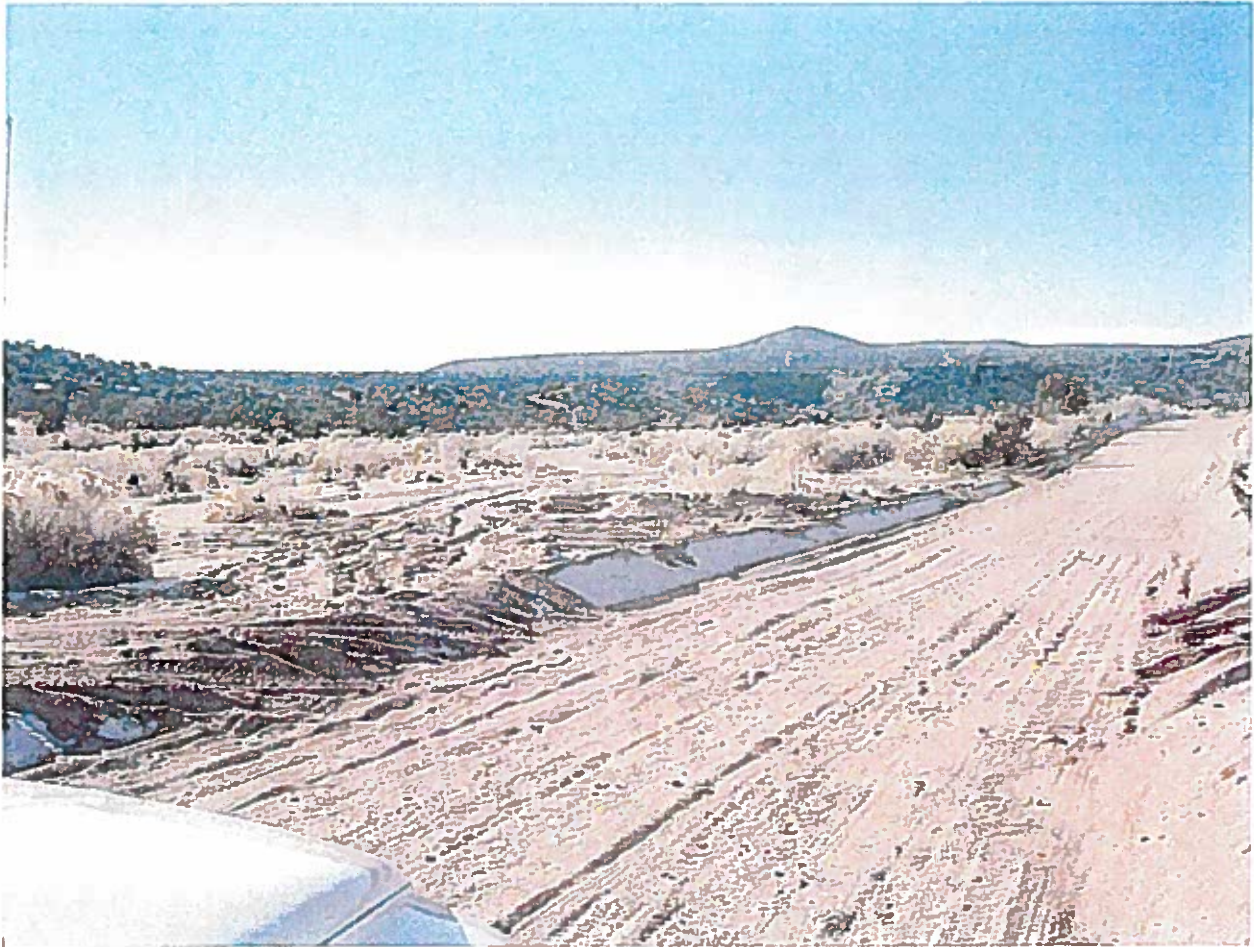


Buckman Road





Buckman Road



Buckman Road



Buckman Road



Buckman Road



Buckman Road



Buckman Road



Buckman Road



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Buckman Road



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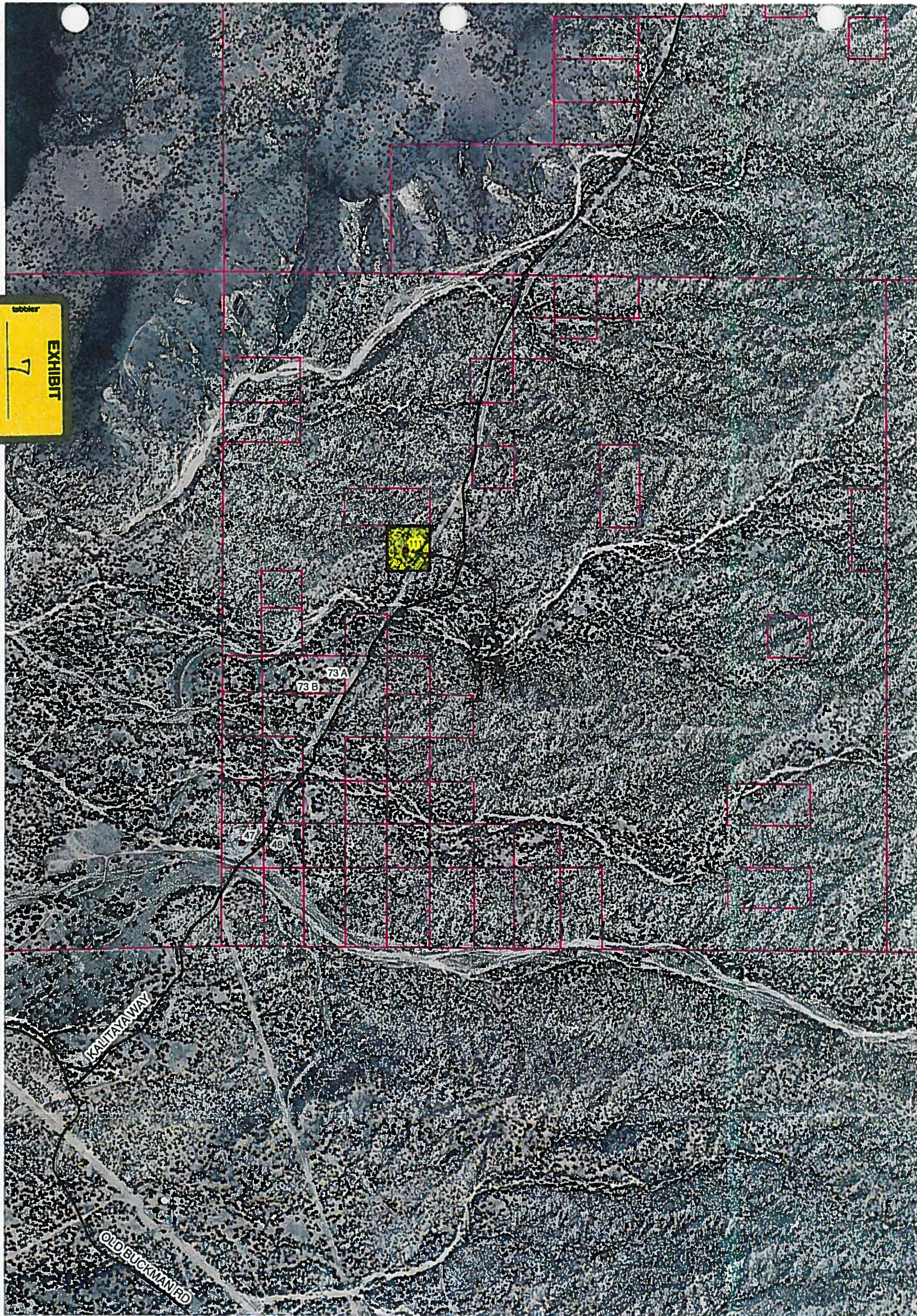


Kalitaya Way



Kalitaya Way

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EXHIBIT
7



Legend

- ROADS
- STRUCTURES
- Parcels
- ~ Driveways

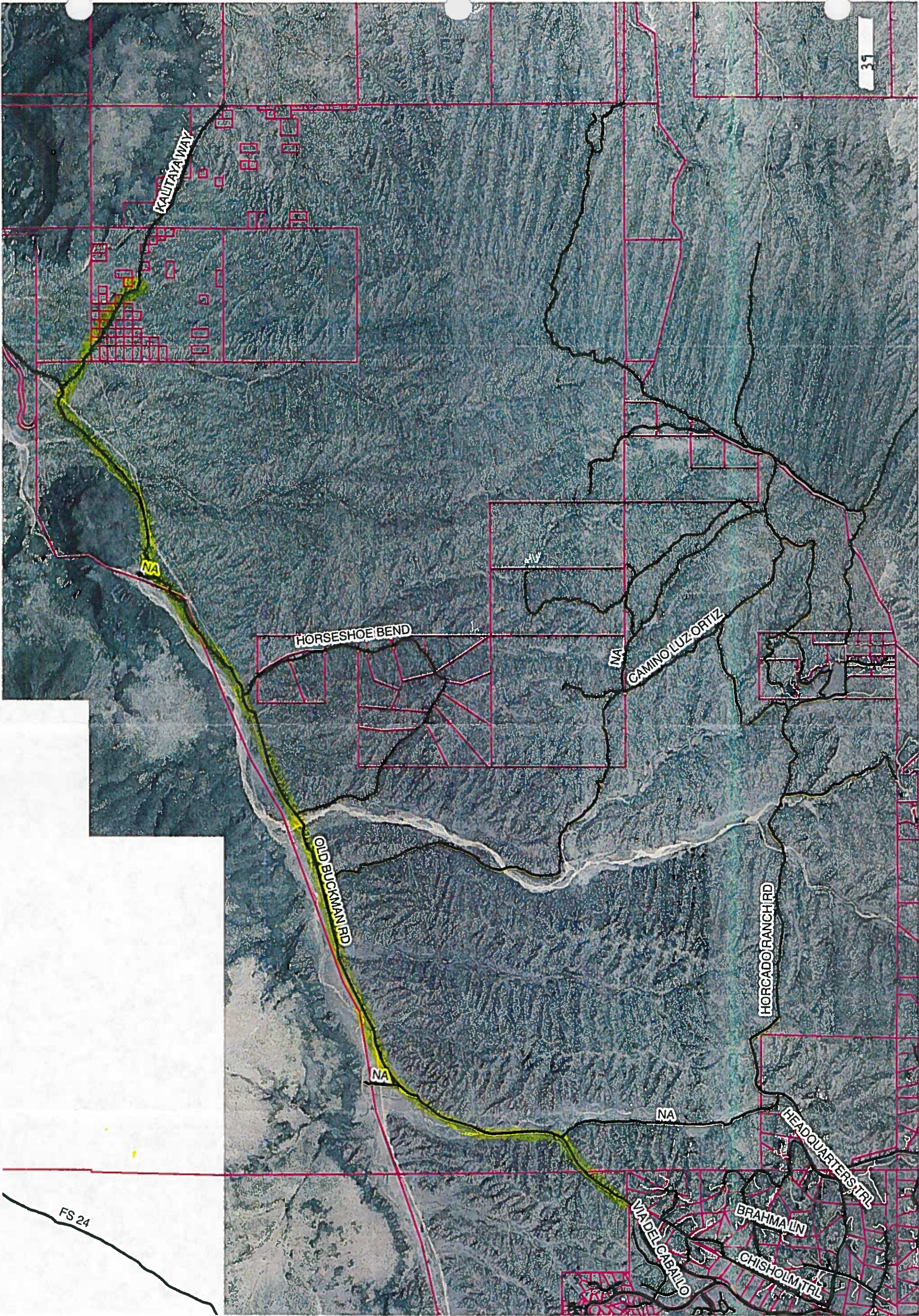


Aerial Photography from 2012
Contour Interval 20 Feet
North American Vertical Datum 1988

This information is for reference only.
Santa Fe County assumes no liability for
errors associated with the use of these data.
Users are solely responsible for
confirming data accuracy.

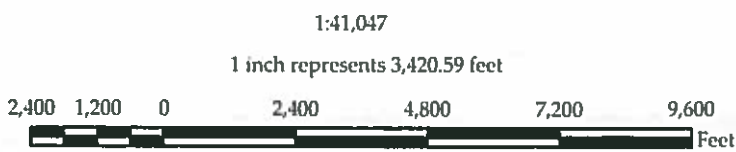


February 12, 2014



Legend

- ROADS
- Parcels
- Driveways



Aerial Photography from 2012
Contour Interval 20 Feet
North American Vertical Datum 1988

This information is for reference only.
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errors associated with the use of these data.
Users are solely responsible for
confirming data accuracy.



February 12, 2014

Daniel "Danny" Mayfield
Commissioner, District 1

Miguel Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

Santa Fe County Fire Department Fire Prevention Division

Official Submittal Review

Date	2/12/14		
Project Name	Pack, Lee		
Project Location	111 Kalitaya Way		
Description	Variance of Road Standards	Case Manager	W. Dalton
Applicant Name	Lee Pack	County Case #	14-5000
Applicant Address	74 Nine Mile Road Santa Fe, NM 87508	Fire District	Pojoaque
Applicant Phone	505-310-2436		
Review Type	Commercial <input type="checkbox"/>	Residential <input checked="" type="checkbox"/>	Sprinklers <input type="checkbox"/>
	Master Plan <input type="checkbox"/>	Preliminary <input type="checkbox"/>	Final <input type="checkbox"/>
	Wildland <input type="checkbox"/>	Variance <input checked="" type="checkbox"/>	
		Hydrant Acceptance <input type="checkbox"/>	
		Inspection <input type="checkbox"/>	Lot Split <input type="checkbox"/>
Project Status	Approved <input type="checkbox"/>	Approved with Conditions <input checked="" type="checkbox"/>	Denial <input type="checkbox"/>

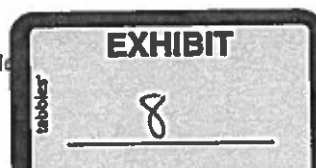
The Fire Prevention Division/Code Enforcement Bureau of the Santa Fe County Fire Department has reviewed the above submittal and requires compliance with applicable Santa Fe County fire and life safety codes, ordinances and resolutions as indicated (*Note underlined items*):

Fire Department Access

Shall comply with Article 9 - Fire Department Access and Water Supply of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal

▪ Roadways/Driveways

Shall comply with Article 9, Section 902 - Fire Department Access of the 1997 Uniform Fire Code inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.



Roads shall meet the minimum County standards for fire apparatus access roads of a minimum 14' wide all-weather driving surface and an unobstructed vertical clearance of 13' 6" within this type of proposed development.

A turn around meeting Santa Fe County Access Road Requirements shall be required at the time of development.

- **Street Signs/Rural Address**

Section 901.4.4 Premises Identification (1997 UFC) *Approved numbers or addresses shall be provided for all new and existing buildings in such a position as to be plainly visible and legible from the street or road fronting the property.*

Section 901.4.5 Street or Road Signs. (1997 UFC) *When required by the Chief, streets and roads shall be identified with approved signs.*

Properly assigned legible rural addresses shall be posted and maintained at the entrance(s) to each individual lot or building site within 72 hours of the commencement of the development process for each building.

- **Slope/Road Grade**

Section 902.2.2.6 Grade (1997 UFC) *The gradient for a fire apparatus access road shall not exceed the maximum approved.*

Driveway/fire access shall not exceed 11% slope and shall have a minimum 28' inside radius on curves.

- **Restricted Access/Gates/Security Systems**

Section 902.4 Key Boxes. (1997 UFC) *When access to or within a structure or an area is unduly difficult because of secured openings or where immediate access is necessary for life-saving or firefighting purposes, the chief is authorized to require a key box to be installed in an accessible location. The key box shall be of an approved type and shall contain keys to gain necessary access as required by the chief.*

To prevent the possibility of emergency responders being locked out, all access gates should be operable by means of a key or key switch, which is keyed to the Santa Fe County Emergency Access System (Knox Rapid Entry System). Details and information are available through the Fire Prevention office.

Automatic Fire Protection/Suppression

Due to its remote location and the possibility of this residence being made inaccessible due to inclement and various other conditions, for life safety and property protection this office requires the installation of Automatic Fire Protection Sprinkler systems meeting NFPA 13D requirements. It is also highly recommended that the homeowners check with their insurance providers to find their requirements. Assistance in details and information are available through the Fire Prevention Division.

All Automatic Fire Protection systems shall be developed by a firm certified to perform and design such systems. Copies of sprinkler system design shall be submitted to the Fire Prevention Division for review and acceptance prior to construction. Systems will not be approved unless tested by the Santa Fe County Fire Department. Fire sprinklers systems shall meet all requirements of NFPA 13-D Standard for the Installation of Sprinkler Systems.

All sprinkler and alarm systems as required shall be tested and approved by the Santa Fe County Fire Department, at rough in and prior to allowing any occupancy to take place. It shall be the responsibility of the installer and/or developer to notify the Fire Prevention Division when the system is ready for testing.

The requirement for residential fire protection sprinkler systems shall be recorded on the plat and in the covenants at the time of filing or as otherwise directed by the County Fire or Land Use Department.

Life Safety

Fire Protection requirements listed for this development have taken into consideration the hazard factors of potential occupancies as presented in the developer's proposed use list. Each and every individual structure of a private occupancy designation will be reviewed and must meet compliance with the Santa Fe County Fire Code (1997 Uniform Fire Code and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code, which have been adopted by the State of New Mexico and/or the County of Santa Fe.

General Requirements/Comments

▪ Inspections/Acceptance Tests

Shall comply with Article 1, Section 103.3.2 - New Construction and Alterations of the 1997 Uniform Fire Code, inclusive to all sub-sections and current standards, practice and rulings of the Santa Fe County Fire Marshal.

The developer shall call for and submit to a final inspection by this office prior to the approval of the Certificate of Occupancy to ensure compliance to the requirements of the Santa Fe County Fire Code (1997 UFC and applicable NFPA standards) and the 1997 NFPA 101, Life Safety Code.

Prior to acceptance and upon completion of the permitted work, the Contractor/Owner shall call for and submit to a final inspection by this office for confirmation of compliance with the above requirements and applicable Codes.

▪ **Permits**

As required

Final Status

Recommendation for Variance approval with the above conditions applied.

Victoria DeVargas, Inspector

Victoria DeVargas
Code Enforcement Official

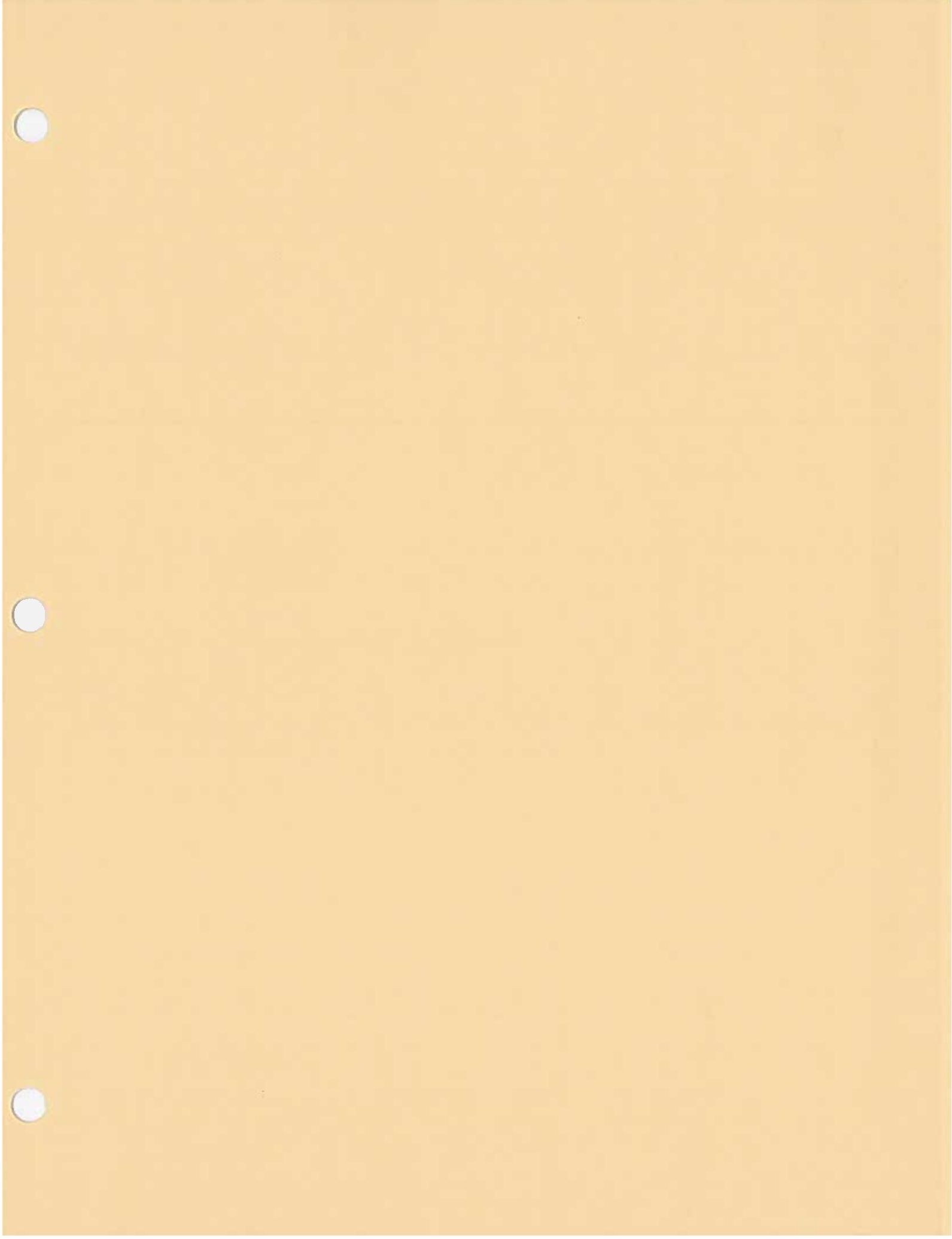
2/12/14
Date

Through: David Sperling, Chief
Buster Patty, Fire Marshal

File: NorthReg/DevRev/Poj/PackLeeVAR.doc

Cy: W. Dalton, Land Use
Applicant
District Chief
File

Enclosed: Fire Department Access Requirements
(applicant only) HFSC Residential Sprinkler System Info Packet



Daniel "Danny" Mayfield
Commissioner, District 1

Miguel M. Chavez
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Katherine Miller
County Manager

DATE: March 25, 2014

TO: Board of County Commissioners

FROM: Jose E. Larrañaga, Development Review Team Leader *JEL*

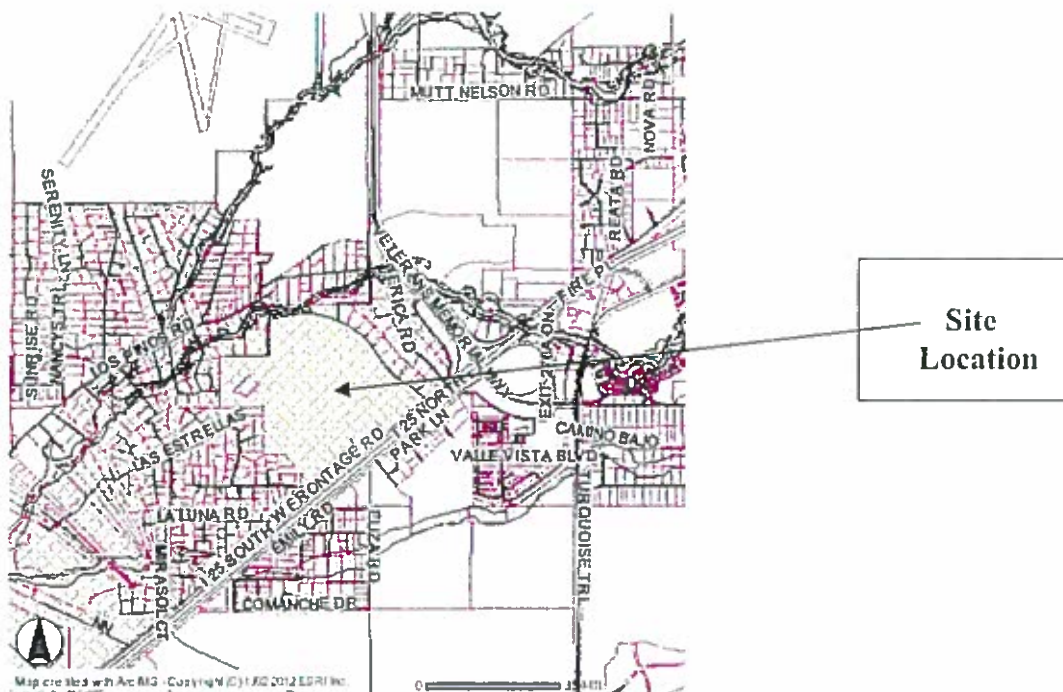
VIA: Katherine Miller, County Manager
Penny Ellis-Green, Land Use Administrator *PEG*
Vicki Lucero, Building and Development Services Manager *VL*
Wayne Dalton, Building and Development Services Supervisor *WD*

FILE REF.: BCC CASE # MIS 10-5152 The Downs At Santa Fe Master Plan Extension

ISSUE:

The Pueblo of Pojoaque Development Corporation, Applicant, requests a two year time extension, of a previously approved Master Plan, for The Downs At Santa Fe. The property is located within the La Cienega Traditional Historic Community, at 27475 I-25 West Frontage Road, within Sections 26 & 27, Township 16 North, Range 8 East (Commission District 3).

Vicinity Map:



SUMMARY:

On August 14, 2001, the Board of County Commissioners granted Master Plan Zoning Approval to allow recreational/non-residential uses at the Downs at Santa Fe on 321 acres.

On July 14, 2004, the BCC granted approval of reconsideration and clarification of conditions to the previously approved Master Plan.

On November 9, 2004, the BCC granted approval of a Preliminary Development Plan for Phase I, subject to conditions, and Final Development Plan to be approved administratively.

On May 8, 2012, the Board of County Commissioners granted a request made by the Pueblo of Pojoaque Development Corporation for a two year time extension of an existing Master Plan for the Downs at Santa Fe.

The Applicant requests a two year time extension of the existing Master Plan for the Downs at Santa Fe, which was originally approved in 2001. The Applicant states that, in 2011/2012, representatives of the Downs worked with the La Cienega/La Cienegullia Planning Committee and the Santa Fe County Planning Department on a Community Plan update to develop options for the use of the Downs property. The Applicant is requesting an extension of the current Zoning approval until such time that the Zoning Map is implemented by Santa Fe County. The proposed Zoning Map designates the Downs property as a "Planned Development District" (subject to the approved Master Plan).

Article V, Section 5.2.1b (Master Plan Procedure) states: "A master plan is comprehensive in establishing the scope of a project, yet is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the sub divider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for a preliminary and final plat approval".

Article V, Section 5.2.7b (Expiration of Master Plan) states: "Master plan approvals may be renewed and extended for additional two year periods by the Board at the request of the developer".

This application was submitted on February 24, 2014.

Growth Management staff has reviewed this project for compliance with pertinent Code requirements and finds the following facts to support this submittal: the Application meets code criteria to allow a two year extension of the Master Plan; the existing Master Plan meets the criteria set forth in Article V, Section 5.2.4 (Master Plan Approval); the Application meets the criteria set forth Article V, Section 5.2.7 (Expiration of Master Plan) of the Land Development Code.

APPROVAL SOUGHT:

Approval of a two year time extension of a previously approved Master Plan for the Downs at Santa Fe.

STAFF RECOMMENDATION: Staff recommends approval of a two year time extension for the existing Master Plan for the Downs at Santa Fe.

EXHIBITS:

- 1- Letter of Request
- 2- Follow Up Letter & Final Order-Case # 01-5010
- 3- Follow Up Letter & BCC Minutes-Case # 01-5013
- 4- BCC Minutes-Case # 01-5014
- 5- Final Order Case # 10-5150
- 6- Final Order Case # 10-5151
- 7- Article V, Section 5.2.7.b
- 8- Ariel
- 9- Recorded Master Plan



HAND DELIVERED

February 6, 2014

Mr. Jose E. Larranaga
Development Review Team Leader
Santa Fe County Building and Development Services
102 Grant Avenue
Santa Fe, NM 87501

Re: THE DOWNS AT SANTA FE
EXTENSION OF MASTER PLAN
APPLICANT: PUEBLO OF POJOAQUE DEVELOPMENT CORPORATION

Dear Mr. Larranaga:

The Pueblo of Pojoaque Development Corporation ("PPDC"), owner of The Downs at Santa Fe, respectfully requests a Renewal and Extension of its current Master Plan for The Downs at Santa Fe. The Santa Fe County Board of County Commissioners ("BCC") approved the existing Master Plan on August 14, 2001, and the BCC extended the Master Plan on May 11, 2010.

Attached please find the following documents in support of our application:

1. The Development Permit Application;
2. A check in the amount of \$375 for the renewal fee;
3. Warranty Deed for The Downs at Santa Fe, from Santa Fe Racing, Inc. to PTE Inc., predecessor in interest to the current owner, Pueblo of Pojoaque Development Corporation, filed of record on February 28, 2001;
4. Certificate of Merger filed of record with Santa Fe County on June 28, 2000, showing the current owner, Pojoaque Pueblo Development Corporation, as the successor in interest to PTE, Inc.,
5. ALTA/ACSM Survey, prepared for Pojoaque Pueblo Development Corporation, by James Medrano, certified January 10, 2003;
6. 2012 Recorded Master Plan (full size) for Downs at Santa Fe Master Plan Extension, prepared by James W. Siebert, filed of record October 19, 2012;
7. 2012 Recorded Master Plan (same as above) (reduced size); and
8. Santa Fe County Treasurer Tax Bill for Second Half 2013 Payment due April 10, 2014; and copy of PPDC check in the amount of \$22,676.22 showing current paid status.



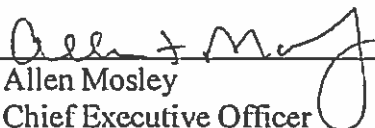
Mr. Jose E. Larranaga
February 6, 2014
Page 2

The Downs at Santa Fe cooperates with the local La Cienega and La Cieneguilla communities. For example, during 2011 and 2012, The Downs worked closely with the La Cienega and La Cieneguilla Planning Committee to revise and develop the La Cienega/La Cieneguilla Community Plan, which was a precursor to the Santa Fe County Sustainable Land Development Code. We believe the La Cienega and La Cieneguilla communities support our renewal application.

Thank you for your consideration of our request to extend the current Master Plan. The Downs continues to consider its development options for the property. If you require additional information, please do not hesitate to contact me.

Sincerely,

PUEBLO OF POJOAQUE DEVELOPMENT CORPORATION

By: _____
Allen Mosley
Chief Executive Officer

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3



Paul Campos
Commissioner, District 4

Jack Sullivan
Commissioner, District 5

Samuel O. Montoya
County Manager

April 12, 2001

Jim Siebert
915 Mercer
Santa Fe, NM 87501

RE: LCDRC CASE # Z 01-5010 Downs at Santa Fe Master Plan

Dear Mr. Siebert.

The La Cienega Development Review Committee at it's regularly scheduled meeting of April 12, 2001 met and acted upon the above referenced case.

The decision of the LCDRC was to approve your request for master plan approval subject to the following conditions:

1. All redline comments will be addressed, original redlines will be returned.
2. The applicant shall submit a drainage and grading plan including stormwater calculations with the development plan for each phase.
3. The applicant shall submit a detailed landscaping plan to include buffering from adjoining residential uses. Additional landscaping and berming may be required. The applicant shall install a 6 ft chain link fence with three strands of barbed wire on all property lines.
4. The applicant shall submit details and the contract for the removal of new and old manure, new manure shall be removed on a weekly basis. All manure on the site, including the area adjacent to Por Su Gracia Subdivision, must be removed prior to Phase 2 Development Plan submittal. If the agreement dated 5/8/00 is cancelled, the applicant shall notify the County within 45 days and submit a cost estimate and financial guarantee, approved by the County, to ensure that the manure is removed by 5/8/05.
5. The applicant shall submit a noise study with the development plan for each phase. If noise levels cannot be mitigated to meet Code requirements certain uses may not be allowed.
6. The applicant may request special use permits for events at the Downs prior to final approval of this plan. The applicant shall submit a complete development plan for Phase 1 is submitted within 45 days of final plan approval. The County may issue special use



permits for 6 major outdoor events prior to submittal of Final Development Plan. A noise study will be conducted at the first event to determine noise levels and mitigation measures, if required. The applicant shall notify the Fire Marshal's office, the Sheriff's office, the State Highway Department and the State Police one month prior to all events.

7. The golf driving range will not be allowed if netting above 24 feet is required.
8. The flea market use cannot take place more than 20 times per year, permanent structures will not be allowed.
9. The applicant shall be responsible for all costs related to traffic control during all events. The Fire Marshall, Sheriff's Department, State Highway Department and the State Police shall be notified by the applicant one month prior to major events.
10. The applicant shall submit a revised Traffic Impact Analysis with the Development Plan; local use figures shall be used for all proposed major uses and the Frontage Road and intersections with SR 599, Camino Entrada, County Road 54 (Los Estrellas), County Road 56 (Los Pinos Road), Camino San Jose and the Downs entry shall be analyzed.
11. The applicant shall submit a hydrology report proving adequate long term water availability, water quality data, a water budget for full project build out and water conservation measures with the Development Plan for each phase. The well shall be metered, annual water meter readings shall be sent to the County Hydrologist. The County shall have the right to verify the readings. The applicant shall connect to the County Water System when it is within 200 feet of the property.
12. The well shall be registered as a Public Water Supply, documentation shall be submitted with the Development Plan.
13. The applicant shall submit a food preparation permit, septic permit, discharge permit and design of the wastewater treatment facility with the development plan for Phase 1.
14. The master plan shall be recorded with the County Clerks Office.
15. The applicant shall submit a driveway permit from the State Highway Department prior to Final Development Plan approval of Phase 1.
16. All existing and new lighting shall be shielded, details shall be submitted with the Development Plan. A lighting analysis for permanent fixtures shall be required for each phase. Details of portable and stage lighting shall be submitted with the Preliminary Development Plan.
17. The applicant shall identify fire access lanes, Knox lock and submit an emergency access plan.
18. The water storage system shall incorporate the use of a tank water level monitoring system, minimum water required for fire protection must be maintained at all times. Final

placement of all fire hydrants shall be coordinated with the County Fire Marshal prior to installation. All hydrants shall flow at 1000 gallons per minute with a 20-psi residual pressure.

19. The existing structure must meet current code requirements and may require a sprinkler system, building designs shall be submitted to the Fire Marshall with the Development Plan for Phase 1.
20. The applicant shall dedicate one lane of the main access road for emergency access and shall identify a basecoursed emergency access road from CR 54, plans shall be submitted with the Development Plan for Phase 1.
21. Compliance with the applicable review comments from the following:
 - A. State Engineer's Office
 - B. State Environment Department
 - C. State Highway Department
 - D. County Fire Marshal
 - E. County Public Works
 - F. Development Review Division Director
22. The applicant shall employ security during all major events to ensure that event goers do not trespass or park on adjacent residential properties or adjacent roads.
23. The applicant shall grant an access easement to the effluent water line to the Ditch Association.
24. All activities shall cease by midnight. In addition, mud bog events shall cease by 7 pm.

This case is due to be heard by the BCC on May 8, 2001.

If you have any further questions regarding this matter please do not hesitate to contact me at 986-6221.

Sincerely,



Penny Ellis-Green
Development Review Specialist III

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3



Paul Campos
Commissioner, District 4

Jack Sullivan
Commissioner, District 5

Samuel O. Montoya
County Manager

CASE NO. 01-5010
DOWNS AT SANTA FE
POJOAQUE PUEBLO DEVELOPMENT CORPORATION, APPLICANT
JIM SIEBERT, AGENT

1977784

ORDER

THIS MATTER came before the Santa Fe County Board of County Commissioners on August 14, 2001 on the applicant's request for:

Pojoaque Pueblo Development Corporation, applicant, Jim Siebert, agent, requests master plan zoning approval to allow for recreational/non-residential uses at the Downs at Santa Fe on 321 acres to be developed in two phases. The property is located southwest of the intersection of I-25 and SR 599, within Sections 26 and 27, Township 16 North, Range 8 East (Commission District 3).

The Board of County Commissioners hereby FINDS:

1. Master plan applications are subject to the requirements of Article V, Section 5.2 of the Land Development Code to the extent that those requirements are applicable to the particular type of master plan application at issue.

Submittals

2. The applicant submitted a vicinity map, a description and documentation of existing site data, a conceptual environmental plan, master plan maps, a phasing schedule, a schematic utilities plan and a master plan report in conformance with Article V, Section 5.2.2. See Downs Plan sheets,

19

Downs Plan Report, materials packet, staff report.

3. To the extent, if any, that a required submittal is not contained in the materials before the Commission but such submittal was either reviewed by county staff or the requirement was waived, and staff then recommended the application as being in conformance with code requirements, the Commission accepts as true staff's testimony that the application is in conformance with the relevant requirements.

1977785

Additional Factual Findings and Conformance with Code Requirements

4. On May 8, 2001 this case was tabled by the applicant, public testimony was taken at that meeting, minutes are attached in Exhibit L of staff packet. On April 12, 2001 the La Cienega/La Cieneguilla Development Review Committee (LCDRC) met and acted upon this case.
5. The applicant has addressed several issues raised at the May 8, 2001 BCC meeting (Exhibit M of staff packet), as follows:
 - **Manure** – The applicant states that the contract with Waupaca has been rescinded and they are now monitoring the hot spots in the manure pile and are discussing options for the manure removal. They do not have a removal plan at this time.
 - **Mud bogs and motor events** – the applicant agrees to remove mud bogs or other motor events that create substantial noise. Car shows are still proposed within the use list.
 - **Lighting** – the applicant states that they will prepare a lighting analysis for each outdoor event and will take measures to minimize the impact of lighting on adjoining properties.
 - **Flea Markets** – the applicant states that flea markets will be limited to one weekend per month.

6. The Downs at Santa Fe has been used for horse racing and recreational purposes since the 1970's. The Downs was purchased by Pojoaque Pueblo Development Corporation in 1996. As this property was operating prior to the effective date of the Code it was considered a legal non-conforming use. If a legal non-conforming use is suspended for more than a year the zoning on the property is lost. Operations ceased at the Downs in 1997, therefore the zoning on this property has been lost. In order to reopen the property for public use the applicants are now requesting master plan zoning and adoption of a use list under Other Development in the County Code.
7. The applicant states that historical uses at the Downs include horse racing, equestrian events, musical concerts and celebrations. The following facilities exist on the property:
 - Main structure, 55,000 sq. ft. with grandstand seating for 2,000 people and table seating for an additional 1,000 people.
 - Jockey club restaurant with seating for 200 people
 - Turf Club restaurant with seating for 400 people
 - Finish Line restaurant with seating for up to 125 people
 - Horse stalls for up to 1,500 horses
 - Cafeteria and kitchen in the stable area
 - Paved parking for 2,374 cars and additional unimproved parking for 2,626 cars
 - One mile horse racing track with lakes, landscaping and turf inside the track.
8. Applicant's Request: The applicant is requesting master plan approval to allow for a two-phased development with the following uses:
 - Horse Racing, betting and related activities as permitted by State Law, including up to 600

slot machines and simulcasting

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- Events (e.g. equestrian shows, dog shows, car shows)
- Celebrations, weddings and banquets
- Musical concerts
- Seminars, conferences and meetings
- Arts and crafts festivals
- Golf driving range and pitch and putt
- Circus, carnivals, rodeos
- Motor events (mud bogs and other motor events that create substantial noise levels have been deleted, see Exhibit M of staff packet)
- Flea Market (limited to no more than one weekend per month)
- Public Recreation fields
- Restaurants including liquor sales

9. Phases: The applicant proposes two phases for this development.

Phase 1 (2001-2005)

- Horse racing with betting, the cafeteria and kitchen in the stables area will be reopened.
- Meeting and conference space will be created by remodeling approximately 7,100 sq ft of the second and third floor of the stadium building
- Concerts and events: a temporary stage and portable seating would be located within the race track. Portable concession stands would be used initially, later the finish line restaurant would be remodeled for use.

- Restaurant: the Jockey Club restaurant will be opened to the public in the evenings and during events. The applicant is in the process of transferring the Downs Liquor License into their name. The Turf Club restaurant will be remodeled as needed.
- The uses requested, except the golf driving range, will be permitted within Phase 1

Phase 2 (2007-2010)

- Permanent amphitheatre to be constructed on the southern portion of the infield, this will be capable of holding 12,000 people and will be sunk into the ground and bermed.
 - Golf driving range and pitch and putt course: the northern portion of the infield will be modified for these uses.
10. Highway Corridor: This property is identified for recreational/ non-residential uses in the Highway Corridor Plan, it is located within the La Cienega Corridor District of the Plan.
 11. Adjacent Property: County Road 54 runs along the east property boundary, east of this are residential uses. To the north and west of the property are residences generally on 2.5 acre lots, to the south of the property is the Frontage Road and I-25.
 12. Access: The main access to the Downs is from the I-25 Frontage Road, this is the public entrance. The access road is paved and is four lanes wide. There is an access road from County Road 54 to the stables area, this is not used by the public. The County Fire Marshall requires emergency access lanes at both of the entrances. The applicant has submitted a traffic impact analysis. The TIA recommends traffic control measures during large events, notifying the Sheriff's Department, State Police and the State Highway Department one month prior to large events and improving the Down's driveway access to the I-25 Frontage Road. The TIA has been reviewed by the Public Works Department with no additional comments and by the State

Highway Department who require that the TIA be amended using local figures and these figures should then be used to analyze the Frontage road and the intersections at I-25 and SR 599. The applicant states that an updated TIA, evaluating impacts at Camino Entrada, Las Estrellas, Downs entry, Los Pinos Road and State Road 599 will be submitted with the Preliminary Development Plan. The applicant is required to submit a driveway permit for both access roads.

13. Parking: The applicant proposes to repair the paved parking areas on an as needed basis and to define the spaces by striping. There is currently space for 2,374 cars. The applicant identifies 3 overflow parking areas which will be graded for unimproved parking during large events, this area will hold approximately 2,626 cars.
14. Terrain Management: The Arroyo Hondo is located at the north of this property, there are currently no detention ponds on the property. A drainage and grading plan with drainage calculations is required with the Development Plan submittal.
15. Water: The applicant proposes to utilize an existing on-site well for water supply, this was previously designated as a Public Water Supply. This designation was rescinded as a result of the closure of the Downs. Prior to opening this designation must be renewed. There is a 200,000 gallon water storage tank on the property northwest of the race track. The applicant has an agreement with the City to use up to 1.2 million gallons of treated effluent per year for irrigation, this agreement is valid through 2007. Effluent is delivered via an 8-inch pipe and is stored in a pond at the northwest corner of the property. The applicant states that there are 50 acre feet of water rights on this property. The applicant has submitted a water budget which estimates 44 acre feet of water will be required for full build out of this project. A geohydrology report to prove adequate water availability is required with the Development Plan. The County

Hydrologist has reviewed this application and has required a full hydrology report, water quality data, water conservation measures and annual water meter readings to be sent to the County. The State Engineer's Office has not reviewed this master plan, the Development Plan submittal will be provided to them for their review. The applicant states that they will continue discussions with the Utilities Division regarding the feasibility of connecting to the County Water System.

16. Fire Protection: The applicant states that a 1,200 gallon pressurized tank will initially pressurize the system on the out flow side of the existing 200,000 gallon water storage tank. The applicant states that two hydrants are located by the main building and an additional six hydrants are located within the stables area. The County Fire Marshal has reviewed this application and requires that the hydrants must flow at 1000 gallons per minute, final placement shall be coordinated with their office and the existing structure must meet current code requirements and may require a sprinkler system.
17. Liquid and Solid Waste: There is an existing wastewater treatment facility on the property, this was previously permitted by the Environment Department for flows up to 5,000 gallons per day. This system has not been operational since the operations at the Downs ceased. The applicant anticipates that initial waste water flows will be limited, therefore a septic system and leach field is proposed until flows reach 2,000 gallons per day. The applicant has submitted an approved septic permit for the initial septic system to be used until flows exceed 2,000 gallons per day (Exhibit J of staff packet). The County Hydrologist and the Environment Department have reviewed this application and require that the septic tank permit be submitted with the Development Plan and that the discharge permit be reactivated. The applicant states that solid

waste removal will be contracted out; a screened trash dumpster is required.

18. There are existing horse manure piles on the western portion of the property. The applicant had a contract to have this removed within a five-year period; however, this contract is no longer in place. The applicant estimates that there is approximately 127,000 cubic yards of manure at the site, 20,000 cubic yards was removed in 2000. A removal plan for old and new manure is required to be submitted with the development plan.
19. Archaeological: No archaeological report has been prepared on this property, a report is required for any new areas to be disturbed.
20. Signage & Lighting: The applicant states that there is one existing free standing sign at the driveway entrance. This sign is 300 sq. ft in size and is 20 ft. in height, this does not meet Code requirements. Staff recommends that the sign be brought into compliance with the Code. The applicant states that the existing lighting will remain, this is required to be shielded. Temporary portable lights will be used during concert events. The applicant states that portable lights in the parking area will be directed downwards. Stage lighting will be focused on the stage, any additional portable lighting will be directed away from residential areas. The applicant states that they will submit a lighting analysis for each outdoor event.
21. Landscaping: The applicant states that there is substantial existing landscaping on the property along the access road, parking areas and racetrack. No additional landscaping is proposed. The applicant is required to identify buffering from residential uses with the development plan application, additional landscaping may be required for this.
22. Fencing/buffering: The applicant has contacted and met with concerned neighbors regarding securing the residential property from people using the Downs. They propose to move the

existing gate closer to the Frontage Road, lock the gate after 6 pm and post no access signs on the gate. They also state that the residents of the two mobile homes will monitor evening activities during non-event periods and security will be hired during events to ensure event goers do not trespass on adjoining property. The applicant states that security will be employed to ensure that event goers do not trespass or park on residential properties or adjacent roads.

23. Community Benefits: The applicant submitted a community benefits statement, attached in Exhibit H of staff packet, which states that benefits are as follows:

- The facility will be available for use by the residents
- There will be job opportunities with the reopening of the Downs
- The Downs will be maintained, preventing possible vandalism
- The fire protection system will be maintained, this resource will be available to the La Cienega area
- A schedule has been established for manure removal
- A portion of the gross receipts will be returned to the community
- The applicant will continue to investigate the possibility of connection to the County Water System
- Composted manure will be available to the community

24. The application conforms to the County Plan. See Resolution 1999-137, "Santa Fe County Growth Management Plan."

25. A preliminary review indicates that the site is suitable to accommodate the proposed development. However, further data is to be presented with the preliminary development plan to further substantiate this. See Downs Plan Report, materials packet, staff report, Downs Plan

sheets, testimony of Siebert.

26. A preliminary review indicates that the uses and intensity of the development are suitable at the location. However, further data is to be presented with the preliminary development plan to further substantiate this. See Downs Plan Report, materials packet, staff report, Downs Plan sheets, testimony of Siebert.
27. There is no significant impact to schools, adjacent lands or the County in general. See Downs Plan Report, materials packet, staff report, Downs Plan sheets, testimony of Siebert.
28. The proposed phases of the project are viable and may function as completed developments in the case that subsequent phases of the project are not approved or constructed. See Downs Plan Report, materials packet, staff report, Downs Plan sheets, testimony of Siebert.
29. The Board has reviewed and supports the decision of the La Cienega/La Cieneguilla Development Review Committee.
30. The facilities exist and there has been historic use of the property for similar uses.

Consideration of Applicant's and Public's Comment

31. On behalf of the applicant, the Commission took testimony from Jim Siebert, Jay Lazarus and Frank Demolli.
32. Members of the public were permitted to speak to the application. Four people spoke in support of the project and fourteen people spoke in opposition of the project.
33. To the extent that any testimony of a factual nature is in conflict with the above findings, the Board expressly chooses not to adopt such testimony.
34. The Board adopts the remainder of all testimony submitted to it.

WHEREFORE, the Board of County Commissioners hereby CONCLUDES that the application is in accordance with Article V, Section 5.2, of the Land Development Code.

WHEREFORE, it is hereby ordered that, subject to the Board of County Commissioners' discretionary zoning authority, the application is GRANTED subject to the following conditions:

1. All redline comments will be addressed, original redlines will be returned.
2. The applicant shall submit a drainage and grading plan including stormwater calculations with the development plan for each phase.
3. The applicant shall submit a detailed landscaping plan to include buffering from adjoining residential uses. Additional landscaping and berming may be required. The applicant shall install a 6 ft chain link fence with three strands of barbed wire on all property lines.
4. The applicant shall submit details for the removal of new and old manure, including any trash within the manure piles, with the preliminary development plan or within 6 months, new manure shall be removed on a weekly basis. All manure and unpermitted trash on the site, including the area adjacent to Por Su Gracia Subdivision, must be removed within 2 years of master plan approval and prior to Phase 2 Development Plan submittal. Half of the manure shall be removed in the first year. Any extension of this timeframe shall be reviewed by the BCC if the applicant shows reasonable cause to extend the two year timeframe. If the timeframe is not complied with then the zoning on this property is void. The applicant shall submit a cost estimate and a financial guarantee, to be approved by the County Land Use Department, for removal of all manure and unpermitted trash prior to this facility re-opening.

5. The applicant shall submit a noise study with the development plan for each phase. If noise levels cannot be mitigated to meet Code requirements certain uses may not be allowed.
6. The applicant may request special use permits for events at the Downs prior to final approval of this project provided that a complete development plan for Phase 1 is submitted within 6 months of the master plan approval. The County may issue special use permits for 6 major outdoor events prior to submittal of Final Development Plan. A noise study will be conducted at the first event to determine noise levels and mitigation measures, if required. The applicant shall notify the Fire Marshal's office, the Sheriff's office, the State Highway Department and the State Police one month prior to all events.
7. The golf driving range will not be allowed if netting above 24 feet is required.
8. The flea market use will be limited to no more than one weekend per month, permanent structures will not be allowed.
9. The applicant shall be responsible for all costs related to traffic control during all events. The Fire Marshall, Sheriff's Department, State Highway Department and the State Police shall be notified by the applicant one month prior to major events.
10. The applicant shall submit a revised Traffic Impact Analysis with the Development Plan; local use figures shall be used for all proposed major uses and the Frontage Road and intersections with SR 599, Camino Entrada, County Road 54 (Los Estrellas), County Road 56 (Los Pinos Road), Camino San Jose and the Downs entry shall be analyzed.
11. The applicant shall submit a hydrology report proving adequate long term water availability, water quality data, a water budget for full project build out and water conservation measures with the Development Plan for each phase. The well shall be metered, annual water meter

readings shall be sent to the County Hydrologist. The County shall have the right to verify the readings. The applicant shall connect to the County Water System when it is within 200 feet of the property provided that the development plan is in accordance with the County line extension and allocation policies.

12. The well shall be registered as a Public Water Supply, documentation shall be submitted with the Development Plan.
13. The applicant shall submit a food preparation permit, septic permit, discharge permit and design of the wastewater treatment facility with the development plan for Phase 1.
14. The master plan shall be recorded with the County Clerks Office.
15. The applicant shall submit a driveway permit from the State Highway Department prior to Final Development Plan approval of Phase 1.
16. All existing and new lighting shall be shielded, details shall be submitted with the Development Plan. A lighting analysis for permanent fixtures shall be required for each phase. Details of portable and stage lighting shall be submitted with the Preliminary Development Plan. A lighting analysis shall be submitted for all outdoor events. Measures shall be taken to minimize the impact from lighting on adjoining properties.
17. The applicant shall identify fire access lanes, Knox lock and submit an emergency access plan.
18. The water storage system shall incorporate the use of a tank water level monitoring system, minimum water required for fire protection must be maintained at all times. Final placement of all fire hydrants shall be coordinated with the County Fire Marshal prior to installation. All hydrants shall flow at 1000 gallons per minute with a 20-psi residual pressure.
19. The existing structure must meet current code requirements and may require a sprinkler system,

building designs shall be submitted to the Fire Marshall with the Development Plan for Phase 1.

20. The applicant shall dedicate one lane of the main access road for emergency access and shall identify a basecoursed emergency access road from CR 54, plans shall be submitted with the Development Plan for Phase 1.

21. Compliance with the applicable review comments from the following:

- A. State Engineer's Office
- B. State Environment Department
- C. State Highway Department
- D. County Fire Marshal
- E. County Public Works
- F. Development Review Division Director

22. The applicant shall employ security during all major events to ensure that event goers do not trespass or park on adjacent residential properties or adjacent roads.

23. The applicant shall grant an access easement to the effluent water line to the Ditch Association.

24. All outside activities shall cease by midnight.

25. All signage shall meet Code requirements.

26. The applicant shall install a monitoring well to monitor effects from the manure pile, a plan for the location and installation of the well shall be submitted to and approved by the County Hydrologist prior to installation. The well shall be installed within ninety (90) days of master plan approval. The well shall be monitored on a quarterly basis for nitrate as nitrogen total

kjeldahl nitrogen, chloride and total dissolved solids. Monitoring results shall be submitted to the County Hydrologist by March 1, June 1, September 1 and December 1 of each year. The County Hydrologist shall be notified five (5) days prior to each ground water sampling event so as the County can participate in the sampling if they choose. In the events that monitoring shows that ground water is contaminated above State standards the County will contact the Environment Department for enforcement. Ground water monitoring shall continue for two (2) years after removal of all manure from the site.

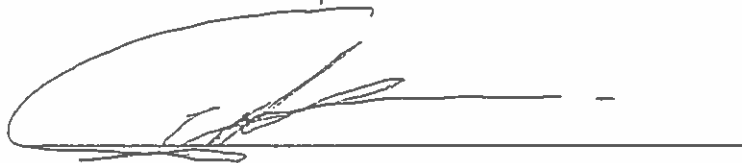
27. The Development Plan shall be heard by the LCDRC and the BCC.

28. The County shall work with the applicant to investigate the options available for disposal of manure.

IT IS SO ORDERED

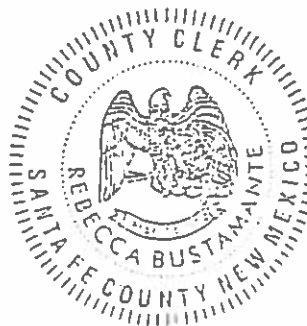
I certify that the above order was adopted by the Board of County Commissioners on this

17 day of September, 2001.



Paul Duran

Chairperson, Board of County Commissioners



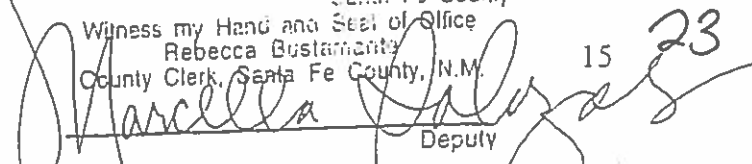
ATTEST:



Rebecca Bustamante, County Clerk.

1173 129
COUNTY OF SANTA FE
STATE OF NEW MEXICO } SS
I hereby certify that this instrument was filed
for record on the 20 day of Sept A.D.
20 01 at 4:09 o'clock Am
and was duly recorded in book 1977
page 784-798 of the records of
Santa Fe County

Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.



Deputy

July 14, 2004

Pojoaque Pueblo Development Corporation
c/o Jana Werner, General Counsel
58 Cities of Gold Road
Santa Fe, NM 87506

Re: LCDRC CASE # MIS 01-5013 The Downs at Santa Fe Variance and
Reconsideration

Dear Ms. Werner:

The Board of County Commissioners at its regularly scheduled meeting of July 14, 2004, met and acted upon the above referenced case.

The decision of the BCC was to amend the conditions as per your request for reconsideration and clarification of previously approved conditions as follows:

3. The applicant shall submit a detailed landscaping plan to include buffering from adjoining residential uses. The applicant shall meet with adjacent property owners to come up with an acceptable landscaping, berming and fencing plan to be submitted with the development plan. Additional landscaping and berming may be required. The applicant shall install a temporary 6 ft. security fence around the areas of the manure piles and effluent pond within a 30 day period as a safety precaution to keep people out of these areas.
4. All manure and unpermitted trash on the site, including the area adjacent to Por Su Gracia Subdivision, must be removed within the two year time extension granted by the BCC. The applicant shall submit a cost estimate and financial guarantee, to be approved by the County Land Use Department, for removal of all manure and unpermitted trash prior to issuance of building permits.
6. The applicant may request special use permits for events at the Downs prior to final approval of this project provided that a complete development plan for Phase 1 is submitted within 6 months of the master plan approval. The County may issue special use permits for 6 major outdoor events prior to submittal of Final Development Plan. A noise study will be conducted at the first event to



determine noise levels and mitigation measures. If noise levels are excessive at the first event, no similar type events will be held until mitigation measures are in place.

The decision of the BCC was that conditions # 7, # 8, and, # 24 remain as they were approved with the original master plan on August 14, 2001.

If you have any questions regarding this matter, please do not hesitate to contact me at 986-6222.

Sincerely,

Vicki Lucero
Development Review Supervisor

- XIV. B. 10. LCDRC CASE # V/MIS 01-5013 - The Downs at Santa Fe. Pojoaque Pueblo Development Corporation, Applicant, Requests Reconsideration of Conditions That Were Imposed on the Previously Approved Master Plan. The Request Includes Modifications to Conditions which Require a 6-Foot Chain Link Fence with Barbed Wire Along the property line, Disallow Special Use Permits Unless a Development Plan is Submitted, Prohibit a Golf Driving Range if Netting Above 24 Feet is Required, Require that all Manure and Un-Permitted Trash be Removed Prior to Phase II Development Plan Submittal, Limit the Number of Flea Market Uses to No More Than One Weekend per Month, and Require all Outside Activities to Cease by Midnight. The Property is Located Southwest of the Intersection of I-25 and SR 599, (Downs at Santa Fe), within Sections 26 & 27, Township 16 North, Range 8 East. Vicki Lucero (Commission District 5)

VICKI LUCERO (Review Specialist): Thank you, Mr. Chair. My name is Vicki Lucero and I'm the development review supervisor with the County Land Use Department. Pojoaque Pueblo Development Corporation, applicant, requests reconsideration of conditions that were imposed on the previously approved master plan. The request includes modifications to conditions which require a 6-foot chain-link fence with barbed wire along the property line, disallow special use permits unless a development plan is submitted, prohibit a golf driving range if netting above 24 feet is required, require that all manure and un-permitted trash be removed prior to phase ii development plan submittal, limit the number of flea market uses to no more than one weekend per month, and require all outside activities to cease by midnight. The property is located southwest of the Intersection of I-25 and SR 599, within Sections 26 & 27, Township 16 North, Range 8 East, Commission District 3.

On June 10, 2004, the LCDRC met and acted on this request. On August 14, 2001 the BCC granted master plan zoning approval to allow for recreational non-residential uses at the Downs at Santa Fe on 321 acres subject to conditions as stated in the follow-up letter in Exhibit D. On December 9, 2003 the BCC granted approval of a request by the applicant for reconsideration and amendment to conditions of the master plan having to do with a two-year time extension of manure approval and drilling of a new monitoring well.

The applicant is requesting reconsideration and clarification of six additional conditions of approval as imposed on the master plan. The first is condition # 3, which states *The applicant shall install a 6-foot chain-link fence with three strands of barbed wire on all property lines*" The applicant is requesting that this part of the condition be deleted because this type of fence around the entire 320-acre property would present a prison-like

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appearance and would confuse this site with the state penitentiary. They also state that there is no need for the fence because there is an existing 4-foot fence between the property where the stable waste is located, which prevents neighbors from coming onto the site where the waste is located.

The second is condition # 4, which states, *All manure and unpermitted trash on the site, including the area adjacent to Por Su Gracia Subdivision, must be removed within two years of the BCC's approval of the manure removal plan and subject to extension for one two-year period and prior to Phase 2 development plan submittal*" They are requesting that the following language be added to the end of the condition *'Or prior to the reopening of the Downs, whichever occurs earlier.'*

The third request is in regards to condition # 6, which states *The applicant may request special use permits for events at the Downs prior to final approval of this project provided that a complete development plan for Phase 1 is submitted within 6 months of the master plan approval.* A development plan has not been submitted, however, the applicant is requesting to use the property now to generate revenue from special use permits to remove stable waste. The applicant would also request that no limit be set as to the number of special use permits.

The forth request is to condition # 7, which states, *The golf driving range will not be allowed if netting above 24 feet is required.* The applicant would like to add language to this condition that states, *Netting is required only if the driving range tee boxes are within 600 yards of any residence.*

The fifth request is to condition # 8, which states, *The flea market use will be limited to no more than one weekend per month. Permanent structures will not be allowed.* The applicant would like to use the facility for open markets throughout the summer and requests that the BCC remove all limitations on the number of flea markets that can occur.

The last request for reconsideration/clarification of a condition is to condition # 24 which states, *All outside activities shall cease by midnight.* The Downs intends on having some indoor activities that will continue past midnight and would like clarification that the intent of the condition was only to restrict outdoor activity.

Pueblo of Pojoaque Pueblo Development Corporation believes there is reasonable cause to amend the conditions and grant the variance as stated above and request that the BCC approve their request.

Recommendation: The decision of the LCDRC was to recommend that the requested conditions be amended as follows. Mr. Chair, would you like me to enter the conditions into the record, or would you like me to go through the changes?

CHAIRMAN CAMPOS: Let's enter them into the record.

MS. LUCERO: Thank you, Mr. Chair. I just also wanted to add that the LCDRC recommended that conditions 7, 8 and 24 remain as they were originally approved.

CHAIRMAN CAMPOS: Okay. Any questions of Ms. Lucero?

COMMISSIONER SULLIVAN: Mr. Chair.

SFC CLERK RECORDED 09/14/2004

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: Vicki, what happened to condition 20? They didn't discuss that.

MS. LUCERO: Mr. Chair, condition #20 had to do with the dedication of one lane of the main access road for emergency access. The applicants were originally requesting a variance to this condition because it was a requirement of the fire code and they actually withdrew that request at the LCDRC meeting so they are no longer requesting an amendment or a variance of that condition.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN CAMPOS: Any other questions? Okay, is the applicant here, or a representative of the applicant?

[Duly sworn, Alan Mosely testified as follows:]

ALAN MOSELY: My name is Alan Mosely, 4713 Sioux Drive.

CHAIRMAN CAMPOS: How much time do you need for your presentation, Mr. Mosely?

MR. MOSELY: My presentation is very short, Mr. Chair.

CHAIRMAN CAMPOS: How short?

MR. MOSELY: Two minutes.

CHAIRMAN CAMPOS: Good.

MR. MOSELY: We have agreed with all of the recommendations of the LCDRC and the conditions set with the request that the County, this Commission reconsider the one condition set by the LCDRC of a number of open air, farmers' art-type markets that we would like to hold, to lift that restriction to one a month. That it's been placed and reconsider that. Other than that, we've agreed to all the conditions set by the LCDRC and County staff.

CHAIRMAN CAMPOS: Okay. This is a public hearing. Anybody here that would like to speak for or against? Okay, no one having come forward the public hearing is closed. Discussion.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: So Alan, then you are agreeing to do a financial guarantee on the manure, correct? On the removal of the manure.

MR. MOSELY: Mr. Chair, Commissioner Anaya, yes. The LCDRC conditions were set on there and we've agreed to that.

COMMISSIONER ANAYA: Tell me about the fencing.

MR. MOSELY: Mr. Chair, Commissioner Anaya, we did meet with the neighbors as requested by the LCDRC on the 29th of June. The fencing, the neighborhood association that met there, the neighbors that met there, the final determination was that there would be a berm built between the adjacent property with landscaping, that they did not want the fence put up around there. We have agreed to put up a temporary fencing around the manure pile and the effluent pond until that is removed which we're hoping that

SFC CLERK RECORDED 09/14/2004

will all be gone by spring of next year.

COMMISSIONER ANAYA: Okay. Tell me what you want to do on the special use permits.

MR. MOSELY: We've agreed on special use permits and I think the conditions stated are that once we do one event in there, if we do a special use permit before the development plan is approved and put in place a special use permit would be granted and then after the first event there would be studies done, a noise study to determine if any future would be issued and that is acceptable to us.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Thank you, Alan.

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I don't see in condition 4 of the LCDRC which is on the bottom of page 3 of our packet, it says that the manure and unpermitted trash on the site, including the area adjacent to the Por Su Gracia Subdivision must be removed within the two-year time extension granted by the BCC. And when did that time extension begin?

MR. MOSELY: Mr. Chair, Commissioner Sullivan, I believe it was granted by this Commission in August of last year, I believe.

MS. LUCERO: Mr. Chair, Commissioner Sullivan, the BCC granted the time extension on December 9, 2003.

COMMISSIONER SULLIVAN: Okay, so that's six months ago. And they indicated, it's rather confusing, on page NB2-6, it says that they were going to remove it prior to the extension or prior to reopening of the Downs whichever occurs earlier. Now does this 4 mean that if they reopen the Downs within the next 18 months they can still not have the manure pile completely removed?

MS. LUCERO: Mr. Chair, Commissioner Sullivan, that would mean they are subject to the two-year time frame. The manure will need to be December of 2005. However, if they choose to open the Downs before that time frame is up they can submit a financial guarantee for the removal of the solid waste and assurance that that will get done within the two years.

COMMISSIONER SULLIVAN: Okay, where does it say that? In 4 I just see it says within the two-year time extension granted by the BCC...the applicant shall submit a cost estimate. Is there something in the dot dot dot?

MS. LUCERO: Mr. Chair, Commissioner Sullivan, if you turn to Exhibit C, the entire condition is written under number 4.

COMMISSIONER SULLIVAN: I have A and E, B. So what's been taken out here?

MS. LUCERO: Mr. Chair, Commissioner Sullivan, actually the language that's underlined in condition #4, the staff report is the language that was added by the LCDRC which requires them to comply with the two-year time extension of the manure

SFC CLERK RECORDED 09/14/2004

removal plan and also that the applicant shall submit a cost estimate and financial guarantee to be approved by the County Land Use Department for removal of all manure and unpermitted trash prior to issuance of building permit. So they still have to comply with the two-year time frame. However, if they choose to open or to do remodeling renovations to the facility prior to that they would be required to submit a cost estimate and financial guarantee for the removal of the manure.

COMMISSIONER SULLIVAN: Does the part of the original paragraph 4, "prior to phase 2 development plan submittal", does that still apply? I'm not understanding where this language comes in to fore. It comes in after the word "must be removed" and it now says it must be removed within two years of master plan approval and prior to phase 2 development plan submittal. Half the manure shall be removed the first year, etc., etc. Are all those conditions still a part of the conditions?

MS. LUCERO: Mr. Chair, the portion that says must be removed within two years of master plan approval and prior to phase 2 development plan submittal, that does not apply any more because they have submitted for a time extension. The master plan was approved back in 2001, so that time frame has expired. But the BCC did grant a two-year time extension in 2003. So that language, that no longer applies. Must be removed within two years of the master plan approval. So therefore we changed the language to say within the two-year time extension granted by the BCC.

COMMISSIONER SULLIVAN: Okay, so this current new language, this is it. There's no other language. If I go back to the original paragraph 4, none of that's applicable anymore.

MS. LUCERO: Mr. Chair, that's correct. It would just be that last sentence requiring them to submit a cost estimate and financial guarantee.

COMMISSIONER SULLIVAN: That's where I'm confused that this is not saying, when you mentioned that they didn't meet it by opening time then they would need the financial guarantee. I don't see where that is in 4 except it's in part of the old 4. So you think some of the old 4 is still in the new 4. Tell me which sentences are.

COMMISSIONER DURAN: Why don't you just tell her what you want?

COMMISSIONER SULLIVAN: I don't know what I want because I don't understand what this says. We've got an old paragraph 4 which has about five or six sentences and I'm not understanding how this works with this 4 and if we don't unravel this the condition will be unclear as to what they have to meet.

MS. LUCERO: Mr. Chair, Commissioner Sullivan, at this point it's basically the last sentence that we kept from that original condition. The rest of the condition was modified.

COMMISSIONER SULLIVAN: Okay, so what you're saying is that condition 4, as proposed by the LCDRC should also have at the end of it the following sentence: "The applicant shall submit a cost estimate and a financial guarantee to be approved by the County Land Use Department for removal of all manure and unpermitted trash prior to this facility reopening."

SFC CLERK RECORDED 09/14/2004

MS. LUCERO: Mr. Chair, Commissioner Sullivan, the language that says prior to this facility reopening, that was changed on condition #4 as recommended by the LCDRC to prior to issuance of building permit. So they can proceed with the development plan. They cannot reopen or they will not be issued building permits unless a cost estimate is in place for removal of the manure or unless the manure has already been removed.

COMMISSIONER SULLIVAN: Okay. So then that last sentence that I just read is not a part of the new paragraph 4?

MS. LUCERO: There were some changes to it, but basically, it's just prior to issuance of building permits.

COMMISSIONER SULLIVAN: Okay, so let me get back to my original question. So the new paragraph 4, this is it. What we see is it.

MS. LUCERO: That's correct.

COMMISSIONER SULLIVAN: Okay. So the dot dot dot between the BCC and the word the, that doesn't mean that there's anything in there. It's just a period there?

MS. LUCERO: Mr. Chair, Commissioner Sullivan, yes, that's correct. The information, the condition, the portion of it that was within that doesn't apply any more because of the time extension granted by the Board.

COMMISSIONER SULLIVAN: Okay. I think the LCDRC did a good job trying to modify this. I don't think there should be any change, personally to the flea market conditions, but I would, and I guess we have to have a public hearing too, but I would want some consideration – I think that this plan is complex enough, and we talked about that earlier this evening, that the preliminary and final development plan should be submitted separately to the BCC. We don't have anything yet on the Downs except a lot of conditions and paperwork. We haven't seen really anything and I think this is a prime contender, particularly with the great amount of public interest in what's going to go on out there that these preliminary and final plans be submitted separately. That would just be, Mr. Chair, my opinion.

CHAIRMAN CAMPOS: Okay, this is a public hearing. Anybody else want to talk? I think we closed the public hearing.

COMMISSIONER SULLIVAN: We already did? Excuse me.

CHAIRMAN CAMPOS: Discussions or motions?

COMMISSIONER SULLIVAN: Mr. Chair, I'd move for approval of the LCDRC conditions, of the conditions as proposed by the LCDRC with the additional condition that preliminary and final development plan shall be submitted separately.

CHAIRMAN CAMPOS: I'll second that. Discussion?

The motion to approve LCDRC V/MIS #01-5013 passed by unanimous [5-0] voice vote.

SFC CLERK RECORDED 09/14/2004

- XI. A. 8. LCDRC Case #DP 01-5014 - Santa Fe Downs. Pojoaque Pueblo Development Corporation, Applicant, Request Preliminary and Final Development Plan Approval for Phase I of the Santa Fe Downs, which Will Consist of Horse Racing, Slot Machine Casino, Concerts and Event Performances, Restaurants, Meeting and Conference Facilities, Flea Market and Parking Areas on 372.39 Acres. The Request also Includes Four Variances of the Land Development Code as Follows: A Variance to Allow a Pond Instead of a Cistern for Water Harvesting; a Variance to Allow a Monument Sign to Exceed 150 Sq. Ft.; A Variance to the Amount of Landscaping Required Along the Frontage Road; and a Variance to Limit the Type and Amount of Landscaping Required within the Parking Lots. The Property is Located Southwest of the Intersection of I-25 and SR 599, within Sections 26 & 27, Township 16 North, Range 8 East (Commission District 3).

MS. LUCERO: Thank you, Mr. Chair. Pojoaque Pueblo Development Corporation, applicant, request preliminary and final development plan approval for Phase I of the Santa Fe Downs, which will consist of horse racing, slot machine casino, concerts and event performances, restaurants, meeting and conference facilities, flea market and parking areas on 372.39 acres. The request also includes four variances of the land development code as follows: a variance to allow a pond instead of a cistern for water harvesting; a variance to allow a monument sign to exceed 150 square feet; a variance to the amount of landscaping required along the frontage road; and a variance to limit the type and amount of landscaping required within the parking lots. The property is located southwest of the intersection of I-25 and SR 599, within Sections 26 & 27, Township 16 North, Range 8 East (Commission District 3).

On October 20, 2004, the LCDRC met and acted on this case. The decision of the LCDRC was to recommend approval.

On October 7, 2004, the applicant conducted a community meeting with the La Cienega/La Cieneguilla community to present their proposal in accordance with the La Cienega ordinance.

On August 14, 2001, the BCC granted master plan zoning approval to allow for recreational/non-residential uses at the Downs at Santa Fe on 321 acres to be developed in two phases. The applicant is now requesting preliminary and final development plan approval for phase I, which will consist of the following:

- Horse racing to begin in mid-2006; in which up to 1500 horses may be present during the racing season. Associated simulcast race betting and casino slot gaming would begin in mid-2005.
- Concert & event performances such as circuses, carnivals, and rodeos in which

SFC CLERK RECORDED 02/03/2005



temporary stages would be set up for each performance and festival seating would be used to accommodate the public. Portable concession stands would be used and portable toilets would be provided.

-Open Air Markets

- A total of four restaurants, two full-service restaurants one of which will seat 150 patrons and will operate throughout the day and another which will be a high quality restaurant open only in the evening and will seat 75 patrons. Two fast food restaurants will operate in the grandstand areas during racing season.

-Meetings and conferences will be held in the stadium building. There will be approximately 7,100 square feet of meeting room space.

-Existing paved parking areas will be repaired. There will be a total of 2,662 paved parking spaces.

Variances: The applicant is requesting four variances of the Land Development Code as follows:

1. A variance to allow collection of roof drainage in a lined pond rather than in a cistern. The applicant states that the amount of water collected in the pond is a mere 20 percent of the water used per day for irrigation purposes, therefore, the water would be used up before any evaporation could occur.
2. A variance to allow a monument sign to exceed 150 square feet. The Downs is proposing to utilize the existing rock ground sign located off the I-25 Frontage Road. The applicant states that the sign is a historic symbol of the Downs, and is unobtrusive but serves to identify the activity behind it.
3. A variance to the internal landscaping required in the parking area. The applicant has agreed to put in the necessary landscaping for the parking areas. However, their proposal is to install landscaping only in the primary parking lot at this time. In the interest of water conservation, they are requesting that landscaping in the secondary lot not be required until two years after the Certificate of Occupancy has been issued. They state that the secondary lot will not be utilized until the site is open for racing or special events.
4. The applicant was also requesting a variance to the amount of landscaping required along the frontage road, however, after re-examining the existing landscaping it appears that the requirement has already been met. Therefore, a variance is not required.

Recommendation. The applicant is requesting three variances of the Land Development Code. In regards to the variance to allow a collection pond for rainwater harvesting rather than a cistern staff feels that it can support this variance due to the fact that there would be very little if any evaporation from the pond given how quickly the water will be used.

In regards to the variance to allow them to utilize the existing sign with some renovations, which exceeds the 150 square feet allowed by code, staff feels that since the sign is already there and has been in existence for the past 30 years, more or less, this

SFC CLERK RECORDED 02/03/2005

request can be also be supported.

As far as the variance for parking lot landscaping, staff can support this request with the understanding that if the secondary parking area is used at any time prior to the landscaping being installed the County will require a financial guarantee.

It is staff's position that this application is in accordance with all other regulations of Article III, Section 4.4. of the Land Development Code and conforms to the La Cienega/La Cieneguilla Plan and Ordinance.

Staff's recommendation and the decision of the LCDRC was to recommend preliminary development plan approval with final development plan approval handled administratively subject to the following conditions. Mr. Chair, may I enter those conditions into the record?

CHAIRMAN CAMPOS: They are so entered.

[The conditions are as follows:]

1. All redline comments will be addressed; original redlines will be returned.
2. Final development plan with appropriate signatures shall be recorded with County Clerk.
3. The applicant shall submit a cost estimate and financial guarantee, to be approved by the County Land Use Department, for removal of all manure and unpermitted trash prior to issuance of building permits. All manure and unpermitted trash shall be removed by December 9, 2005.
4. A noise study shall be conducted at the first concert event to determine noise levels and mitigation measures, if required. If noise levels exceed code regulations and cannot be mitigated to conform, certain uses may not be allowed.
5. The applicant shall notify the Fire Marshal's office, the Sheriff's Office, the State Highway Department and the State Police one month prior to all events.
6. The applicant shall be responsible for all costs related to traffic control during all events.
7. The existing well shall be metered. Annual meter readings shall be submitted to the County Hydrologist by September 30th of each year. The County shall have the right to verify the readings. The applicant shall connect to the County Water System when it is available within 200 feet of the property.
8. The well shall be registered by as a Public Water Supply. Documentation shall be submitted prior to building permit issuance.
9. The applicant shall submit a discharge permit and design of the wastewater treatment facility prior to building permit issuance. A food preparation permit will required prior to occupancy.
10. The applicant shall submit access permits from the NMDOT (I-25 Frontage) and County Public Works (CR 54) prior to building permit issuance.
11. All existing and new lighting shall be shielded. A lighting analysis will be required with the final development plan. Details and cut sheet of all light fixtures including staging areas and portable lighting shall be submitted with the final development

SFC CLERK RECORDED 02/03/2005

- plan.
12. The applicant shall identify fire access lanes, and knox lock and submit an emergency access plan.
 13. Final placement of hydrants shall be coordinated with the County Fire Marshal prior to installation. All hydrants shall flow at 1000 gallons per minute with a 20-psi residual pressure.
 14. The existing structure must meet current code requirements and may require a sprinkler system. Building designs shall be submitted to the Fire Marshal for review and approval.
 15. The applicant shall dedicate one lane of the main access road for emergency access and shall identify a base coursed emergency access road from CR 54.
 16. The applicant shall employ security during all major events to ensure that event goers do not trespass or park on adjacent residential properties or adjacent roads.
 17. The applicant shall agree to provide an easement to the Ditch Association upon presentation of an agreement between City of Santa Fe and the Association for acquisition and use of effluent.
 18. All outdoor activity shall cease by midnight.
 19. All signage shall meet Code requirements.
 20. A permit to reinstate the waste water treatment facility shall be submitted prior to building permit issuance.
 21. Locations of dumpsters shall be designated on the final development plan. A contract from a solid waste disposal service shall be submitted prior to occupancy.
 22. An archaeological survey will be required prior to the disturbance of any new areas.
 23. Lot coverage shall not exceed 60 percent of the total lot area.
 24. Business registration will be required prior to occupancy.
 25. The applicant will be required to submit a financial guarantee, in an amount approved by the County, for all improvements including fire protection, roads, retention ponding and landscaping prior recordation of the Final Development. The financial guarantee for landscaping and revegetation will be kept until the plantings have taken, for a minimum of one year after installation.
 26. Compliance with the minimum standards for parking lot landscaping.
 27. Drip irrigation systems will be required for all proposed landscaping.
 28. Compliance with applicable review comments from the following:
 - a) State Engineer
 - b) State Environment Department
 - d) State Department of Transportation
 - e) County Hydrologist
 - f) Development Review Director
 - g) County Fire Marshal
 - h) County Public Works
 - i) Technical Review Division

SFC CLERK RECORDED 02/03/2005

29. Financial surety for parking lot landscaping.
30. Advertising of off-site business is prohibited.
31. All necessary approvals associated with each specific use must be obtained by the applicant.
32. A 50/50 mix of evergreen and deciduous trees is required along the proposed berm.
33. The applicant must submit a development agreement for participation in the cost of future traffic improvements including traffic signals at the intersection of County Road 54 (Los Pinos Road) and the I-25 frontage road.
34. The applicant must provide traffic control to Los Pinos Road, Entrada La Cienega, and Las Estrellas during special events.
35. The applicant shall submit a back-up plan for water use for irrigation purposes.

CHAIRMAN CAMPOS: Questions?

COMMISSIONER DURAN: I have a question.

CHAIRMAN CAMPOS: Statement? Speech?

COMMISSIONER DURAN: No, no. These are real questions. Looking at the recommendations, Vicki, number 3 states that the applicant shall submit a cost estimate or financial guarantee to be approved by the County Land Use Administrator for removal of all manure and unpermitted trash prior to the issuance of building permit. And when you go to number 25, it states the applicant will be required to submit a financial guarantee in an amount approved by the County for all improvements including fire protection, roads, retention ponds and landscaping prior to recordation of the final development.

I'm wondering if there would be a problem - because often times from the recordation to the actual issuance of the building permit there is a lapse of time there. They may not even apply for a building permit for some months after final development, and that means that the final guarantee, which has to be paid for, is in place with - it's not necessary to have it in place at that point. But I do think it's necessary to have it in place when they start turning up dirt or they start doing something based on the building permit. So I was wondering, would you agree that that would be an acceptable change to paragraph 25?

MS. LUCERO: Mr. Chair, Commissioner Duran, number 25 is actually a standard condition that we impose on all projects to require them to submit a financial guarantee before they record.

COMMISSIONER DURAN: Before they record.

MS. LUCERO: Before they record.

COMMISSIONER DURAN: Okay.

COMMISSIONER MONTROYA: For the building permit?

COMMISSIONER DURAN: No. Okay, I have a problem with that. And then the only other one I have is if you go to number 30, you have advertising of off-site business is prohibited. I consider that to be a restriction of trade and a violation of the first

SFC CLERK RECORDED 02/03/2005

amendment. And would be opposed to that as a condition. I don't understand why was that placed on that.

MS. LUCERO: Mr. Chair, Commissioner Duran, the County Code prohibits off-site advertising. So it wouldn't necessarily be advertising for the Downs, but if they wanted to advertise for some other business at another location it's prohibited by ordinance.

COMMISSIONER DURAN: Oh, that's in the ordinance?

MS. LUCERO: It's the in County Code. Yes, sir.

COMMISSIONER DURAN: Okay. Well, we can discuss that later. Thank you. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Vicki, back I recall a couple years ago when we went through the first master plan on this there were restrictions put on the hours of operation for the special events. I think it was midnight or something of that sort. Are those still in the conditions or in the approvals or what was the outcome of that?

MS. LUCERO: Mr. Chair, Commissioner Sullivan, there is a condition. It's condition number 18 that states that all outdoor activities shall cease by midnight. That was the condition that was part of the master plan.

COMMISSIONER SULLIVAN: Okay. I see it now. Thank you. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, just regarding number 30. So that means, because the Pueblo has other businesses, they wouldn't be able to advertise the Cities of Gold Casino, or Pojoaque Supermarket, or anything that's related to their business enterprise?

MS. LUCERO: Mr. Chair, Commissioner Montoya, that's correct. They wouldn't be allowed to advertise that's not there on the site, on the specific site.

CHAIRMAN CAMPOS: Outdoor advertising, right?

MS. LUCERO: Outdoor advertising. Yes, that's specific to the ordinance.

COMMISSIONER MONTOYA: So they would have to come for a variance request in order to get that so they could advertise for off-site businesses then?

MS. LUCERO: Mr. Chair, Commissioner Montoya, that's correct. Yes.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay, applicant or agent? Governor, please state your name, address, and we're going to swear you in.

[Duly sworn, Governor George Rivera testified as follows:]

GOVERNOR RIVERA: My name is George Rivera, Governor of Pueblo of Pojoaque, Route 11, Box 71-2, Santa Fe, New Mexico, 87506.

CHAIRMAN CAMPOS: Governor, do you accept all the conditions set forth by staff?

GOVERNOR RIVERA: Mr. Chair and Commissioners, thank you for

SFC CLERK RECORDED 02/03/2005

staying up late and dealing with us. I appreciate your time. We do have a couple of issues. Number 25 on the financial guarantee for improvements prior to recordation of final development plan, our concern is that in developing this complex, large project, such as trying to put together compacting with the state, licensing with the state on horse racing, building a casino and then opening the racetrack a year later, we are asking if we can have language that reads "prior to issuance of a building permit" which would be closer to us actually building the facility. We are not opposed to putting up the financial guarantees. It's just that we feel that we may have it hanging out there for some time prematurely.

CHAIRMAN CAMPOS: Have you discussed this with our staff and raised this concern before tonight? Mr. Catanach?

MR. CATANACH: Chairman Campos, Commissioners, we had discussions certainly about language, about when certain things would be required and I don't recall if we specifically talked about this condition 25 and the question was asked, or the response was that that is a standard condition but I want to explain that it's more standard when a bond is being required for a subdivision plat. The subdivision plat is what allows a developer to start selling lots and this is not a subdivision plat. So I want to clarify that in fact it's standard procedure to require the bond before you allow a subdivision plat to be recorded in order that a developer can start selling lots. This is not the same thing.

This is just making a development plan public record when you record it. So in fact, allowing the bonding prior to issuing the building permit is acceptable.

CHAIRMAN CAMPOS: So why didn't you guys have that language in here before tonight?

MR. CATANACH: Mr. Chair, we discussed a number of things and when certain things would be required and I don't recall if we discussed this particular condition.

CHAIRMAN CAMPOS: Okay. Governor, what else?

GOVERNOR RIVERA: Mr. Chair, advertising off-site business is prohibited. Once again, the sign has been there for 30 years. We have advertised our other businesses on that sign. We've also loaned it to different non-profits to advertise their issues. We're currently working with New Mexico State Highway Department and building them a billboard on our property. The need for signage there for our businesses and for getting the message out to people is necessary. At a minimum I would ask if we could get a variance on that. That we would be able to use the sign for advertising other things until the facility is permanently developed at which point we would not want to advertise off-site business. But in the meantime it would sit there with two blank sides to it and I don't think that would look very well. But I do think that there's some good that could come out of it and if we could use it temporarily until our development is done and then at that point it will become a permanent sign for that development.

CHAIRMAN CAMPOS: Ms. Lucero, do you have any comments to that, reference condition 30?

MS. LUCERO: Mr. Chair, as I mentioned before, the Code is specific to say that off-site advertising is not allowed. So in order for them to come forward for a

SFC CLERK RECORDED 02/03/2005

variance, I don't know if maybe legal would want to respond to this but this request wasn't noticed for any type of off-site advertising variance and I think they would have to go through the proper procedures for that.

CHAIRMAN CAMPOS: One, there's no notice, and two you're asking to be treated from everybody else because this rule has been applied in the county for a long time. That's the way I see it. Okay, so you accept all other conditions, Governor?

GOVERNOR RIVERA: Yes, and I want to say thank you to the staff and Santa Fe County for the cooperation on this. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. This is a public hearing. Anybody wants to be for or against it? Ma'am, you want to come forward. Sir, you want to talk about it, in the plaid shirt and the closed eyes? Come on up so we can swear you in.

[Duly sworn, Christine Sanchez testified as follows:]

CHRISTINE SANCHEZ: Christine Sanchez, 212-B Los Pinos Road. What I'm against is the road, the entering and stuff like that. This is one of my main concerns. When the Downs were there before, my family had almost been hit quite a few times. We've had to wait on Los Pinos - now it's called Los Pinos but before it was 54 or 56. But waiting there, it was more than 15 minutes. Sometimes it would be a half hour waiting to get out.

CHAIRMAN CAMPOS: To get onto the frontage road?

MS. SANCHEZ: Yes. And that was when the Downs was there. Now there are more people. There's more neighbors around the Downs. Las Estrellas is right next to the entrance of the Downs and I think there's another road. I can't think of the name right now. But they have suggested that they're going to put in an extra lane. I know there's going to be liquor served there at different times, whether it's the racing or the restaurant, but when we had it, when it was just the two roads that it is now, people were passing left and right and they were serving drinks then.

My concern is if I save even one life that is more than enough for me. I just would want you guys to be thinking about that. I know they said they're going to have somebody, I don't know if it's engineering or what it is to see the flow of traffic. But in my day, in my lifetime I've never seen somebody that's paying for this and that company coming back and saying, No. This isn't a good solution. So much traffic coming in. It's going to impact our community.

Another thing is the four-foot berm that they have said they wanted to put up for noise. Right now you can hear I-25 where I live. So to me, I can imagine whenever there is horseracing or anything like that the noise level is going to be higher. I was told that just talking here is 50 whatever it is, decibels. It's way higher. If I hear the highway from where I live I imagine this other stuff would be a lot louder. I don't think a four-foot berm would cut the noise or the trees that they want to put up. Something else has to be done.

For the roads, they had told us that maybe they would give us stickers on our cars so that if the sheriffs or the state police, whoever was going to direct traffic, whenever they saw that sticker they would let us go by right away. I don't think that's a good solution. To me even that extra road they want to do, the extra lane is just a band-aid. That's my opinion. The time, 12:00, I think is kind of late only because at the time when the Downs was there

SFC CLERK RECORDED 02/03/2005

there were no people around. Now there's people up to their fence line all the way around. I was just in Atlanta, Georgia, there for a concert, and their time limit was 11:30 and they were a big residential area. So I think if other towns and even the City of Santa Fe for the rodeo grounds, everything has to end at 10:00 because they're trying to be respectful to their neighbors. If it's the drag, whatever it is that they have there it has to be closed by 10:00 period, no ifs, ands, or buts.

Another thing that I'm concerned about is the pollution, the light pollution. There's going to be a lot of light out there. I don't think anybody has said anything about that. But we are a small community and I think that should be addressed. We want to be good neighbors and they're coming into our community and they said they were going to be helping out with like a community center or something. Well, saying it and doing it are two different things. I don't think they have written anything down exactly what they wanted to do.

We want to keep our community. It is a small community. We already have Las Golondrinas, the traffic from them and the traffic from Sunrise Springs. The roads have not been improved with those two that are right there on Los Pinos Road. This is going to be a lot more traffic. I just feel that we're not going to be - we're not Las Vegas and we need to be toned down a little bit. We're the community of La Cienega. We need your help, and every time I come to a meeting, whether we stay late. Tonight is a late night. I don't want to be forever, but I always look at the sign up here. Protection of property, religion and language. I think that's what you guys are here to do. I understand that it's their property. They want to develop it but I think it just needs to be toned down a little bit for our community.

Like they said, they've come back I think a couple of times for the manure and they're putting up money for it to be taken away. In all good conscience, in all good conscience, I have to say this that they made a compact with the state and they have not abided by their commitment. And I just want to ask you why do you think that they would commit and do what they said they were going to do to you if they haven't done it for the state.

I love my community and I'm not saying that there can't be progress, but I think the things I brought up, and I think because we are a little community, I hope you guys will protect us and I want to say thank you very much for your time. Thank you.

CHAIRMAN CAMPOS: Thank you, Ms. Sanchez.

EDWARD A. RIVERA: Again, Edward A. Rivera. I am all for the development of the Downs at Santa Fe. It has a long history. I think a lot of people don't realize that it is a part of the community and when it closed it also impacted the community. Some people had to move away from Santa Fe when the Downs closed because their livelihood left so they followed the tracks to other cities. I think the County can make this work. There are racetracks in other cities that are right inside the city itself, in Los Alamitos, in Phoenix and other cities. And I'm sure it will be a success and it makes good economic sense. I'd be glad to see it open again.

CHAIRMAN CAMPOS: Mr. Catanach, do you have a comment?

MR. CATANACH: Mr. Chair, I haven't been out on the property since before they came in for a master plan amendment and the question has been asked more than once if

SFC CLERK RECORDED 02/03/2005

the chain link fence has been installed around the manure pile. The Fire Marshal had a concern that there should be a chain link fence installed to keep kids out of that area and I believe we asked the Downs the question and the response was yes, but the question keeps coming up. I see Ed is nodding.

CHAIRMAN CAMPOS: Governor, has that been installed?

GOVERNOR RIVERA: Yes, Allan Mosely told me it was, so it was. I haven't seen the manure pile in a while but I understand it's almost gone.

CHAIRMAN CAMPOS: Okay. Great. Ms. Lucero, access to homes. As Ms. Sanchez asked, there were long waits to be able to get onto the frontage road when there were events at this site. How do you address that from the County perspective?

MS. LUCERO: Mr. Chair, the applicant did provide a TIA regarding the traffic and I believe the recommendation of the TIA was that deceleration lanes and an acceleration lane be constructed for traffic exiting the facility and traveling northbound. It also recommended improvements to upgrade the access to comply with State Highway Department access manual with the right turn deceleration southbound and a left turn deceleration lane northbound into the facility. I believe the applicants are in agreement with this. We sent this out to the Highway Department for review and we have not yet received a response. The Public Works Department did review the application and they made some comments regarding County Road 54.

I also understand the Fire Marshal had a concern regarding emergency access, so the applicant has agreed to dedicate one lane for emergency use only.

CHAIRMAN CAMPOS: Okay, there's also condition 34, the applicant must provide traffic controls to Los Pinos Road, Entrada La Cienega and Las Estrellas during special events. Okay, so the other issues, the berming and the noise level. What if it turns out that the noise is much higher than we expect today? What authority do we have to go in there and regulate as a County to protect the residents in the area?

MS. LUCERO: Mr. Chair, there is a condition regarding noise.

MR. CATANACH: I think it's number 4.

MS. LUCERO: Yes, Mr. Chair, it's condition number 4 that a noise study shall be conducted at the first concert event to determine noise levels and mitigation measures if required. If noise levels exceed Code regulations and cannot be mitigated to conform certain uses may not be allowed in the future.

CHAIRMAN CAMPOS: Okay. What about the midnight close time? Is that too late if you're in a situation like this?

MS. LUCERO: Mr. Chair, that was actually a condition that was imposed on the master plan when they came in at that time, and that pertains to outdoor activities, so concerts and other special events need to cease by midnight.

CHAIRMAN CAMPOS: All outdoor events.

MS. LUCERO: All outdoor events.

CHAIRMAN CAMPOS: By midnight. Don't you think that's a little late?

MS. LUCERO: I know that the community had raised some concerns

SFC CLERK RECORDED 02/03/2005

regarding that even if outdoor activities cease by midnight people wouldn't actually be leaving the facility until one or two o'clock in the morning. That may be late to have people out there in traffic.

CHAIRMAN CAMPOS: What about the light issues? Lighting. Do you have a condition that regulates that? Number II - shall be shielded, lighting analysis shall be required at the final development plan. Do you feel that's adequate to protect the residents?

MS. LUCERO: I believe so. Mr. Chair, the applicants have actually submitted a preliminary lighting analysis and from what they submitted it seems to comply but they will need a more detailed one at final development plan.

CHAIRMAN CAMPOS: Final development does not come back to us?

MS. LUCERO: Mr. Chair, staff's recommendation and the recommendation of the LCDRC was that that would be handled administratively.

CHAIRMAN CAMPOS: Okay. Any other questions? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I just want to thank the LCDRC for doing a great job in terms of asking a lot of questions to the applicant and straightening out a lot of the concerns that they had. And I want to thank Christina and Edward for showing up and voicing their concerns. And a lot of those concerns are addressed in the conditions. I want to ask a question to the Governor and one of the main concerns that I have, Governor, is that no activities would start - and I just want to reaffirm it to the public, that no activity would start in this area until all the manure is gone, removed. And I just want to hear it from you that you're still looking at it the way we're looking at it.

GOVERNOR RIVERA: Yes, Commissioner. Yes, we're agreeing to that condition and the condition is that all the horse manure will be removed.

COMMISSIONER ANAYA: Okay.

GOVERNOR RIVERA: I don't know if there's anything else out there.

COMMISSIONER ANAYA: I appreciate that, because that's one of the main issues that was brought up from the beginning and I appreciate that.

GOVERNOR RIVERA: And we understand that it is actually no violation that we have created that requires us to remove it. We did it at the request of the neighbors, so that's a point I wanted to make clear, that there's absolutely no violation out on that property.

COMMISSIONER ANAYA: And I understand that and I appreciate that that you are doing that. Other than that I think that this has been an ongoing process. I think we've come to - this is going to be good economic development. I hate to just see this building just rot, just fall down. I'm glad to see we're going to repair it and we're going to have some activities there. But I want you to be really concerned about the issues that for example Christina brought up and that is the road issue and making sure it's safe when people are exiting or entering Los Pinos Road and into the Downs. So I think it's been a long, long process. I think it's going to be a good thing. I just want to thank everybody for working on it and bringing the issues, and finally coming together on this.

SFC CLERK RECORDED 02/03/2005

Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER MONTÓYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTÓYA: I think it's important and I lot of times we don't learn things that we should learn in school because we're not taught, number one. And I think, I can see that to hear it over and over in my district about Pojoaque Pueblo, why aren't they paying to the state? Governor, would you mind, I think it's important that we educate people in terms of why exactly that's the case, that the sovereign Pueblos don't have to pay in those compacts unless they're willing to do so. If you wouldn't mind briefly, just explaining.

GOVERNOR RIVERA: Commissioner Montoya, thanks for asking that question. It's actually an issue I've been dealing with for about ten years. The Pueblos in New Mexico are sovereign governments that aren't subject to tax. And what the compacts are requiring is basically a revenue sharing that exceeds any other tax in New Mexico. We are in one of the most important law suits for Native Americans and states in the country. It's the only lawsuit of its kind in the country. And the only way we got it into court is by having the state sue us.

So in order to protect tribal sovereignty we had to take action to force us to be sued, to take us into court so that we could have our day in court and prove that charging the tribes in order to get a compact is illegal, both under federal law and under the state constitution. Thank you.

COMMISSIONER MONTÓYA: Thank you, Governor. I'll yield to Commissioner Sullivan.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just had a quick question for staff. You say that the staff is going to administratively approve the final development approval, but the memorandum here indicates that we're being requested to approve preliminary and final development plan approval. Vicki, can you explain that to me?

MS. LUCERO: Mr. Chair, Commissioner Sullivan, the applicant was requesting preliminary and final development plan approval. After reviewing the application, staff was just recommending preliminary in order to allow the applicant to address the conditions that we've imposed. And once those have been addressed then the final would be approved or handled administratively.

COMMISSIONER SULLIVAN: I see. So what you're asking the Commission for tonight is only preliminary development plan approval.

MS. LUCERO: That's staff's recommendation, yes.

COMMISSIONER SULLIVAN: Okay. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Any other questions or comments?

COMMISSIONER MONTÓYA: Mr. Chair, I'd like to move for approval.

CHAIRMAN CAMPOS: I have some question.

SFC CLERK RECORDED 02/03/2005

COMMISSIONER MONTÓYA: Could I make a motion and then you can ask a question.

CHAIRMAN CAMPOS: Well, I'd rather not have a motion until all the questions are talked about.

COMMISSIONER MONTÓYA: Okay. You can do it either way, I guess.

CHAIRMAN CAMPOS: Governor, on number 18, it says all outdoor activities shall cease by midnight. Would you be opposed to an additional clause that would say this may be amended by the BCC for good cause?

GOVERNOR RIVERA: I'm talking with my staff about that and we feel we've gone to the residents and we've discussed what it is that we would be doing. I don't foresee this being a regular basis, but I think that it passed the local scrutiny already and that's why we're submitting it as-is.

CHAIRMAN CAMPOS: So you're saying you would not agree to that.

GOVERNOR RIVERA: I would prefer to keep it as-is.

CHAIRMAN CAMPOS: Okay. Is there a motion?

COMMISSIONER MONTÓYA: Mr. Chair, if there's no other questions, I'd like to move for approval of the preliminary development plan, with the amended language on number 25 that would read prior to issuance of building permits, and then on number 30, if we could limit that or implement that at the time that the business begins, which would be in 2006, that advertising off-site businesses would be prohibited.

CHAIRMAN CAMPOS: I think the issue there is jurisdictional. There's no advertisement as to a variance. Therefore we would have no authority at this time to consider that request. I think that's what staff indicated earlier.

COMMISSIONER MONTÓYA: Oh, is that correct?

COMMISSIONER DURAN: It is somewhat. I think what Commissioner Montoya is suggesting is that until they actually start using the property, if the motion passes, they would be able to use it for other advertising. I think that's different than a variance to use it after they start operating out of there.

CHAIRMAN CAMPOS: I guess, Mr. Catanach, could you address that issue. Or Mr. Ross?

MR. CATANACH: If I understood that, that the sign that's advertising Cities of Gold would be allowed and then - it would be allowed until they actually occupy, open for business. And then the question came up that then they would advertise I guess the Downs on that sign. But it's not just an issue of the business advertising on that sign. It's an issue of if the sign's structure itself meets standard. So I think if the applicant would like to continue to advertise Cities of Gold and if in fact the sign doesn't meet standards for size of sign and height, that this applicant would come back for a variance and clarify what they are going to advertise on that sign and what the dimensions of that sign are. If that sign meets sign standards.

CHAIRMAN CAMPOS: Mr. Ross. I know it's late.

MR. ROSS: Mr. Chair, I don't think there's a need for a variance because

SFC CLERK RECORDED 02/03/2005

the sign is grandfathered right now and until what's approved here actually begins operation I don't think there's a violation of Code necessitating a variance. If that's the motion. The intent of the condition on the sign parameters anyway, so I think at some point they'll have to address those as well, if the sign is non-conforming under the new requirements.

COMMISSIONER DURAN: Second.

COMMISSIONER SULLIVAN: What was the first condition?

CHAIRMAN CAMPOS: The first amendment was number 25, saying that the financial guarantee would have to be put up before building permit.

COMMISSIONER MONTOYA: Prior to issuance of building permit.

CHAIRMAN CAMPOS: Prior to issuance of building permit as opposed to I guess sooner. That's number 25. And then 30, what language -

COMMISSIONER MONTOYA: Advertising of off-site business is prohibited until 2006? Is that what I heard maybe the date of occupancy? Is prohibited after -

CHAIRMAN CAMPOS: Until the property is open for business? We're just talking about that one particular sign, right? We're not talking about other signs. We're talking about the particular sign that exists can be used for off-site advertising until this business opens in 06?

GOVERNOR RIVERA: I'm not an attorney but I think the language without the day is probably safer, to just say that until it opens for business and becomes a permanent sign.

COMMISSIONER DURAN: I'd agree.

CHAIRMAN CAMPOS: Now any other comments or suggestions.
Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think midnight is too late. It takes so long to get the cars out of that place, particularly if one lane is going to be dedicated for emergency access which it well should be. I just feel that that is quite an imposition. If you took this condition literally, then it would be okay. All outdoor activity. That would mean the gates are locked and everyone was going home. That would be okay. But you know that's not what's going to happen. What's going to happen is that the events are going to continue until midnight.

CHAIRMAN CAMPOS: The concert ends.

COMMISSIONER SULLIVAN: The concert is going to end and then you're going to have an hour and a half of cars and honking and drinking and what have you and carousing until everybody gets out the gate. I just feel personally that that's a valid point brought up here this evening that that should be cut back perhaps to 11:00.

COMMISSIONER MONTOYA: What time does a concert end? I've never been to one.

COMMISSIONER SULLIVAN: That's the problem. They never seem to end. They move from the concert to the parking lot to the highway.

SFC CLERK RECORDED 02/03/2005

COMMISSIONER DURAN: Days. How long did Woodstock last? Did you ask the applicant if 11:00 would be acceptable to him?

CHAIRMAN CAMPOS: I want to say I do share that concern but I also want to state the concern I stated earlier about having some, reserving for the Commission some authority to amend the cease time in the future if there's good cause for that. That gives us flexibility to regulate something that might get out of control. Governor?

GOVERNOR RIVERA: How about 12:01?

CHAIRMAN CAMPOS: How about 10:00.

GOVERNOR RIVERA: I think 11:30 wouldn't make a difference if that will help in any way. I think a concert probably ends probably at the latest at 11:30. It depends on how good they are and if they get an encore or not.

CHAIRMAN CAMPOS: Well, they have to start earlier then.

GOVERNOR RIVERA: But I think 11:30 would be acceptable, but I go back to my original point is that we have dealt with the local community and got this passed as 12:00. But we would come down to 11:30. That's meeting half way.

CHAIRMAN CAMPOS: If we start at 10:00 then you meet us half way at 11:00. It depends where you start. I agree. I think that 11:00 is a good time to close shop. And I think we need to reserve some authority. I think that's a friendly amendment to end by 11:00 and allow the BCC authority amend cease time if justified by good cause. That way we can keep control of this and make sure that this doesn't get out of control and that the community's protected.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I would have a problem with the 11:00 but I guess I would want to know how the Tingley Coliseum operates. I've never been to a concert either.

COMMISSIONER DURAN: I don't remember if I've been or not. It's late.

COMMISSIONER ANAYA: Are they getting out at ten? Are they getting out at eleven? Or what are their restrictions. I'd like to see what Tingley does, what Popejoy Hall does. I'd like to hear that. But for the sake of the residents in my district, I don't have a problem with 11:00 but I think we should revisit that later and if it doesn't turn into a problem then I don't have a problem with that either.

CHAIRMAN CAMPOS: So you're saying 11:00 and reserving the authority of the BCC to make an adjustment if there's good cause in the future? What about that? Who's the maker?

COMMISSIONER MONTÓYA: I would agree with 11:30 and then your language.

COMMISSIONER DURAN: And the seconder agrees.

CHAIRMAN CAMPOS: 11:30 plus language to reserve the authority?

COMMISSIONER MONTÓYA: Because that covers you.

CHAIRMAN CAMPOS: If things are getting out of hand we can still

SFC CLERK RECORDED 02/03/2005


change it to 11:00 later in the future. Okay. We have a motion. We have a second. It's been amended. Number 18 has been amended to 11:30 with language allowing the BCC to regulate the cease time if there is good cause in the future.

The motion to approve LCDRC Case #DP 01-5014 with conditions as amended passed by unanimous [5-0] voice vote.

ADJOURNMENT

Chairman Campos declared this meeting adjourned at approximately 10:50 p.m.

Approved by:

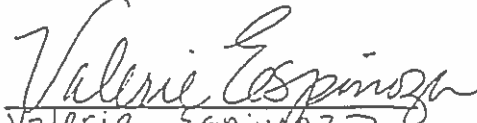


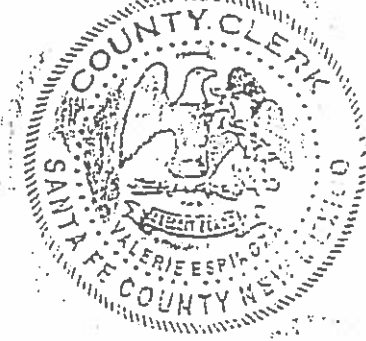
Board of County Commissioners
Paul Campos, Chairman

Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:


Valerie Espinoza
SANTA FE COUNTY CLERK

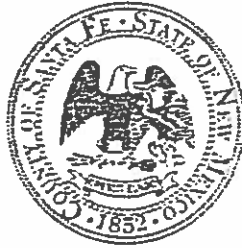


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Harry B. Montoya
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Michael D. Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefanics
Commissioner, District 5

Roman Abeyta
County Manager

BCC CASE # MIS 10-5150
THE DOWNS AT SANTA FE MASTER PLAN EXTENSION
THE PUEBLO OF POJOAQUE DEVELOPMENT CORPORATION,
APPLICANT

ORDER

THIS MATTER came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on April 13, 2010, on the Application of the Pueblo of Pojoaque Development Corporation (hereinafter referred to as "the Applicant"), for an extension of an existing Master Plan for the Downs at Santa Fe and modifications of certain conditions of the Master Plan. The BCC, having reviewed the Application and supplemental materials, Staff report and conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. The Applicant requests a two-year time extension of its existing Master Plan and the removal of the following conditions of the Master Plan: removal of all manure and unpermitted trash; limit of (6) special use permits for major events prior to Final Development Plan approval; limit of flea market use to one weekend per month.
2. The property is located within the La Cienega Traditional Historic Community, at 27475 I-25 West Frontage Road, within Sections 26 & 27, Township 16 North, Range 8 East (Commission District 3).
3. The trash and manure have been removed from the site.



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4. Limiting major outdoor events may hinder the use of the site by the general public.
5. The site lends itself as a venue for major events that would be beneficial to the inhabitants of Santa Fe County.
6. Major outdoor activities have been allowed on this site, noise levels have been measured and mitigation measures were not needed.
7. The local community supports the possible future use and growth of the markets at the Downs.
8. The elimination of these conditions would allow the Land Use Administrator the discretion of permitting markets and events on this site.
9. The Application meets the criteria set forth in Article V, Section 5.2.4 (Master Plan Approval) and Article V, Section 5.2.7 (Expiration of Master Plan) of the Land Development Code.
10. Janna Werner representing the Applicant agreed to Staff conditions.
11. Carl Dickens, President of the La Cienega Valle Association, spoke in favor of the Application including the removal of existing conditions.
12. Walt Borten, Santa Fe Traditional Flea Markets, testified on how the proposed flea market at the Downs at Santa Fe would operate.
13. The Commission recommends the following special conditions of approval:
 - a. The Applicant shall comply with the conditions of the approved Master Plan except as modified by this Order.

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b. The Applicant shall comply with any applicable ordinance(s) adopted by the County prior to the submittal of preliminary and final development plan.

14. After conducting a public hearing on the request and having heard from the Applicant and public, the Board of County Commissioners hereby approves the request for an extension of the Master Plan and the deletion of the following conditions from the Plan, subject to the Applicant's compliance with the special conditions as stated above:

- 1) removal of all manure and unpermitted trash;
- 2) a limit of six (6) special use permits for major events prior to Final Development Plan approval;
- 3) a limit of flea market use to one weekend per month.

IT IS THEREFORE ORDERED that the Application is approved, and the Applicant is allowed an extension of its existing Master Plan, as modified herein, subject to the conditions set forth herein.

I certify that the Application was approved by the Board of County Commissioners on this 11th day of May, 2010.

The Board of County Commissioners of Santa Fe County

By: _____

BCC Chairperson

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ATTEST:

Valerie Espinoza
Valerie Espinoza, County Clerk



Approved as to form:

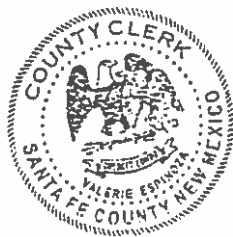
Stephen C. Ross for
Stephen C. Ross, County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC ORDER
PAGES: 13

I Hereby Certify That This Instrument Was Filed for
Record On The 12TH Day Of May, 2010 at 03:41:49 PM
And Was Duly Recorded as Instrument # 1598639
Of The Records Of Santa Fe County

Deputy Marcos Withess My Hand And Seal Of Office
Valerie Espinoza
County Clerk, Santa Fe, NM



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- XIV. A. 4. BCC CASE # MIS 10-5150 The Downs At Santa Fe Master Plan Extension The Pueblo of Pojoaque Development Corporation, applicant, Requests a Two-Year Time Extension of a Previously Approved Master Plan. The Request Includes Modifications to Conditions Which Require That All Manure and Unpermitted Trash Be Removed, Which Limits The Downs to Six (6) Special Use Permits for Major Events Prior to Final Development Plan Approval, and Which Limits Flea Market Use to One Weekend per Month. The Property is Located Within the La Cienega Traditional Historic Community, at 27475 I-25 West Frontage Road, Within Sections 26 & 27, Township 16 North, Range 8 East (Commission District 3)

MR. LARRANAGA: Thank you, Mr. Chair. On August 14, 2001 the Board of County Commissioners granted master plan approval to allow recreational/non-residential uses at The Downs at Santa Fe on 321 acres subject to conditions. On July 14, 2004, the BCC granted approval of reconsideration and clarification of conditions to the previously approved master plan. On November 9, 2004, the BCC granted approval of a preliminary development plan for Phase I, subject to conditions, and final development plan to be approved administratively.

The Land Use Administrator has determined that the accumulated time period for the master plan and reconsideration of the master plan and preliminary development plan are due to expire July of 2010. The applicant is requesting a two-year time extension of the approved master plan. Article V, Section 5.2.7.b states: Master plan approvals may be renewed and extended for additional two-year periods by the Board at the request of the developer.

The applicant also requests the deletion of conditions, on the prior approvals, which require that all manure and unpermitted trash be removed, which limits The Downs to six special use permits for major events prior to Final Development Plan approval, and which limits flea market use to one weekend per month.

Condition # 4 of LCDRC CASE # MIS 01-5013 The Downs at Santa Fe Variance and Reconsideration states: All manure and unpermitted trash on the site, including the area adjacent to Por Su Gracia Subdivision, must be removed within the two year time extension granted by the BCC.

As conditioned by the BCC, the applicant has removed the manure and trash. The applicant requests that this condition be removed from the master plan. Staff has made several site inspections and has verified the removal of the trash from the site. A portion of the manure was spread out on the property and the remainder of the manure has been removed from the site. One of the handouts that you received was from the New Mexico Environment Department on the manure removal. ???ex

Condition # 6 of LCDRC CASE # MIS 01-5013 The Downs at Santa Fe Variance and Reconsideration states: The applicant may request special use permits for events at the Downs prior to final approval of this project provided that a complete development plan for Phase 1 is submitted within six months of the master plan approval. The County

SFC CLERK RECORDED 05/12/2010

may issue special use permits for six major outdoor events prior to submittal of final development plan. A noise study will be conducted at the first event to determine noise levels and mitigation measures. If noise levels are excessive at the first event, no similar type events will be held until mitigation measures are in place.

The applicant requests that this condition be removed from the master plan and allow the Land Use Administrator to determine the quantity of events to be allowed on the site. A revised development plan is unforeseen in the immediate future by the applicant. Limiting major outdoor events to six, prior to submittal of final development plan, may hinder the use of the site by the general public. Major outdoor activities have been allowed on this site where noise levels have been measured and mitigation measures were not needed.

The term major outdoor event is not defined in the Code and therefore has been difficult for Staff to determine what type of activities fall under this category. What constitutes a major outdoor event is left to the interpretation of the Land Use Administrator. This site lends itself as a venue for major events which would be beneficial to the inhabitants of the County. Prior events serve as testimony of the capability of this venue to host large-scale activities with minimal impact to the local community while improving the economic growth of Santa Fe County.

This site has hosted two major events and per the terms of the existing condition only four major events may occur prior to submittal of a final development plan. The elimination of this condition would allow the Land Use Administrator the discretion of permitting events via a Special Use Permit and not limiting the use of this venue for major events.

Condition # 8 of Case # Z 01-5010 Downs at Santa Fe Master Plan states: The flea market use will be limited to no more than one weekend per month, permanent structures will not be allowed.

The applicant requests that this condition be removed from the master plan. The applicant is proposing that the Land Use Administrator determine the quantity of flea markets to be allowed on the site. Permits for permanent structures, for the use of vendors, shall not be issued until such time that a Final Development Plan is approved and recorded with Santa Fe County.

The Land Use Administrator has allowed the La Cienega Community to have flea markets and farmers markets at this site. The local community is very enthusiastic of the possibility of future use and growth of the markets. The elimination of this condition would allow the Land Use Administrator the discretion of permitting markets at the request of the local community. And one of the other handouts was a letter of support from the La Cienega Valley Association.

Recommendation: Staff has reviewed this application and has found the following facts to support this submittal: the application meets code criteria to allow a two-year extension of the master plan; the trash and manure have been removed from the site; limiting major outdoor events may hinder the use of the site by the general public; major outdoor activities have been allowed on this site where noise levels have been measured and mitigation measures were not needed; the site lends itself as a venue for major events which would be beneficial to the inhabitants of Santa Fe County; the local community supports the possibility of future use and growth of the markets; the elimination of these

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conditions would allow the Land Use Administrator the discretion of permitting markets and events on this site.

Staff's review of the applicant's request has established findings that this application meets the criteria set forth in Article V, Section 5.2.4 and Article V, Section 5.2.7 of the Land Development Code. Staff recommends approval of a two-year time extension for the master plan for The Downs at Santa Fe and the removal of the previously approved conditions, #4, #6 and #8, subject to the following conditions:

1. The applicant shall comply with the conditions of the approved master plan.
2. The applicant shall comply with any applicable ordinance(s) adopted by the county prior to the submittal of preliminary and final development plan.

And Mr. Chair, I stand for any questions.

CHAIRMAN MONTTOYA: Okay, questions. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Thank you, Mr. Larrañaga. With regard to permitting, I need to get some clarification on this. We would be the permitting entity to allow for this flea market to occur. Is that correct?

MR. KOLKMEYER: Mr. Chair, Commissioner Vigil, that's correct.

COMMISSIONER VIGIL: So is it a business license that they would require from us?

MR. KOLKMEYER: We had discussions this morning, Commissioner Vigil, with the Finance Department because there's kind of three different enterprises that have been discussed so far – the flea market, the farmers market and then entertainment activities. The flea market as we understand it right now would be conducted through a person who would contract with the Pueblo to do that and every vendor there would require a business license. We haven't determined yet exactly how we would deal with the farmers market and the growers, or now the music events also would be licensed. But in each case they would have to do a special use permit, for each of those clusters of activities.

COMMISSIONER VIGIL: Do they fall within our permitting requirements?

MR. KOLKMEYER: Yes.

COMMISSIONER VIGIL: Every one of those activities?

MR. KOLKMEYER: Not all of them. The flea market currently does, and that will happen first because we won't do the growers market, the farmers market probably until some later period. A little bit later on when the season occurs. And then with the special events, like the music events or any other festivals or things that would occur, we assumed we would do it the way that we did it with the music events with the Pueblo on previous occasions.

COMMISSIONER VIGIL: Does the Pueblo charge a separate fee for use?

MR. KOLKMEYER: The arrangements between any of the activities of the flea market, the farmers market would be done through contracts between those entities and the Pueblo.

COMMISSIONER VIGIL: Okay. And the one request that's confusing to me is that we are requiring that the booths, for lack of a better word, and they're asking that they not. Is that correct?

MR. KOLKMEYER: The condition is no permanent structures, as I

understand it at this point, and the issue there is again, one of the reasons for the extension of the master plan is because this is sort of a preliminary step in working with the Pueblo, the County and the community in trying to figure out how things might evolve on this site over the next couple of years. So we don't want to start getting into building or removing things until the Pueblo would decide how they want to do their master plan. So this is a great way to figure out what kinds of activities that can occur there fairly immediately because we would hope to start in mid-May and bring revenue into the Pueblo, the community and the County, and then figure out and move slowly towards the completion of the master plan. So we don't want to do too much from our perspective right now of adding or removing structures.

COMMISSIONER VIGIL: And I guess I wanted some real clarification for the vendors' purposes. Would the vendor be paying a usage fee every time they use the facility? And to whom would that user fee be paid?

MR. KOLKMEYER: That would be an arrangement between the vendor and the Pueblo, as I understand it. The Pueblo is represented here this evening they can probably answer that question for you.

COMMISSIONER VIGIL: Yes. I'd like to see how that is actually structured. And it's seeming to me that the master plan has not been proposed yet.

MR. KOLKMEYER: Well, there was an original master plan, and so this is an extension to that so we can figure out again because that master plan was done - how many years ago? The original?

MR. LARRAÑAGA: 2001.

MR. KOLKMEYER: So that's ten years old, so things have changed. In fact if you go back and you look at the conditions on there originally the community at that point wasn't particularly behind having flea markets. So things have changed quite a bit. And again, to the question you were asking earlier, we don't - one of the things we want to do is work out those fiscal arrangements so it's very clear what we do and how we proceed. We've never really done flea markets. We did a special use permit for the Oshara flea market last year and that was the same person who will probably be doing these so you could ask him that question a little bit later on too. But we want to really make sure that we're proceeding here and looking at activities that really fit that environment and that site right now.

COMMISSIONER VIGIL: When the County hosted some of the farmers market activities at the County Fairgrounds, was that just a temporary permit?

MR. KOLKMEYER: Yes.

COMMISSIONER VIGIL: Okay. Thank you, Mr. Chair.

CHAIRMAN MONTTOYA: Okay. Any other questions for staff.

JANNA WERNER: Mr. Chair, honorable Commissioners. My name is Janna Werner. I'm general counsel for the Pueblo of Pojoaque Development Corporation, and we're requesting that the council approve our application. I'll try to be short. Basically, we're asking for two primary changes. The first is a request that the master plan be extended for two years. The second is a request for amendments to conditions to the master plan.

The first condition I want to talk about is condition #4 which required the removal

SFC CLERK RECORDED 05/12/2010

of any manure or stable waste that had been stored on the property. As of the early part of 2008 absolutely all manure waste and unpermitted trash that had been stored on the property was finally removed. That had been removed in stages over a number of years. I believe that staff provided to you the letter from the New Mexico Environment Department which was our final approval of the land application of any of the final waste compost and an approval of a report and plan. So that condition actually has now been satisfied. We believe it's moot and we're requesting that it be removed as a condition from the master plan.

Next, I'd like to address two other conditions to the master plan that we would like amended. Those conditions are condition #6 and condition #8. Condition #6 referred to a variety of matters but the most important thing that we're talking about here today is that special use permits for limited – and a total amount to only six. For condition #8 flea markets were limited to only one weekend per month. We've been working with the community with a concept to have a traditional flea market there, long range, a farmers market, and there have been ongoing special events, primarily entertainment, and a couple of horse events.

Our request to the Commission is that those two existing conditions be removed and instead we simply provide, or that the commission simply provides that the Land Use Administrator has the discretion to determine the number of events at The Downs and when a special use permit is needed.

Let me then, if I may, address several of the issues that have come up with questions from the Commission. I think if we go back to the year 2006 and historically everyone knows that the Downs at Santa Fe was primarily intentioned as a horse racing facility. Since that time the New Mexico Legislature passed a law and limited and said that they were only going to issue one more racing license to one more facility in the state. In late 2008 the State Racing Commission granted the license to Raton and denied our license. As a result everything in our master plan had been somewhat on hold pending an outcome of whether or not our racing license was granted.

At this time the flea market is the one event we actually have had discussions about. Now, exactly what form that will take is still being considered. Most likely it will be in the form of a rental agreement or a management agreement to another company. That company then would be in charge of the vendors and what the vendors pay, etc. and the whole management of the flea market. That's the concept that we're looking at right now. There have been a couple of discussions but that is not finalized in a final contract.

Not all events out there do we require any type of a rental fee. Some are done at no charge; some are done at minimal charge. It depends on what the event is.

So with that, if there are any future plans for development, obviously consistent with the conditions that the staff is suggesting for this approval, any future development or activities that require more action from the Commission we will be back here as those are formulated. But here now we're requesting those changes so that we can proceed with a farmers market for the local farmers out there, for a traditional flea market and for other miscellaneous entertainment.

CHAIRMAN MONTROYA: Okay. Questions for the applicant?
Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. If I recall correctly, and I remember being on the Solid Waste Management Authority when issues came up with

SFC CLERK RECORDED 05/12/2010

regard to removal of the manure, it really wasn't so much the manure, although that was a requirement to have it removed, but one of the issues that surfaced as a community was the fact that there were needles and waste there that might be toxic to the land, the aquifer, all of that. This particular letter from the Department doesn't address anything but manure. Do you have any information about that?

MS. WERNER: Mr. Chair, Commissioner Vigil, all of the removal was done through the NMED. They were there. They had investigations and we've had meetings. I was not aware of any needles out there. I know that there were some reports in the NMED – I had seen those reports but I hadn't seen anything – I think it's important to look and the context of this is perhaps more information than you need. The Downs at Santa Fe uses effluent water from the City wastewater plant to water the landscape. And because of that The Downs at Santa Fe has a discharge permit from the New Mexico Environment Department. And it was only through that that there was any way that the NMED was looking at the stable waste that had been stored out there.

Part of the ongoing NMED permitting process, we do continue to test, groundwater sampling test every quarter. And those have all been within state norms. Actually, they're less than half of the state norm.

COMMISSIONER VIGIL: Okay. With regard to a proposed master plan, will it be specifically a flea market for the sale of goods and perhaps farmers market products or will art also be a part of this? Is there a proposal to – this should be vendors to a certain percentage.

MS. WERNER: Mr. Chair, Commissioner Vigil, if I understand your question correctly, currently we're not proposing any long-term changes to the master plan except to all these events. And how the vendors are treated would be through the company with whom we will be contracting. So that will be an arrangement through the person with whom we're contracting and the vendors. We do not anticipate any direct contracts between the vendors and the Pueblo of Pojoaque Development Corporation.

COMMISSIONER VIGIL: Thank you, Mr. Chair.

CHAIRMAN MONTROYA: Any other questions? Okay. Thank you, Jenna. This is an open, public meeting – public hearing, so if there's anyone that would like to speak on this case please come forward. Carl.

[Duly sworn, Carl Dickens testified as follows:]

CARL DICKENS: My name is Carl Dickens. I'm the president of the La Cienega Valle Association. And this is really an exciting moment for me. Usually I'm a little worried about coming up and speaking before you. This is an opportunity that we have supported, encouraged and we're embracing. This is really our opportunity to support the Pueblo of Pojoaque in what we feel will be a very wonderful opportunity for everybody in our community. And some of the things I wanted to address – Commissioner Vigil, you asked about will there be art? We already have a Downs committee that's working on activities specifically for youth. And I talked to the flea market operator and he will have a space that will be allowed for performances for kids, music for kids, art activities. We have people in our community who already are coming forward to participate and be actively involved in that.

I also want to explain the process that we went through in terms of notifying our community about what the Downs is proposing. We put in our newsletter that goes out to 1250 homes. We've had a series of two different meetings. We've posted notices on our

community notice boards. And in our meetings what I found was fascinating is people weren't so concerned about now. They wanted to see the future. So they were already talking about things that they would like to see happen there. They talked about bringing the Santa Fe Rodeo out to the Downs facility.

So we're actively supportive of this and really look forward to the opportunity of working with the Pueblo of Pojoaque in what we think will be a really beneficial use of that property for everyone involved. Thank you.

CHAIRMAN MONTTOYA: Thank you, Carl. Anyone else?

[Duly sworn, Walt Borten testified as follows:]

WALT BORTEN: Thank you. My name is Walt Borten and my partner Sarah Cook and I own Santa Fe Traditional Flea Markets. We are in conversation with the Pojoaque Pueblo about conducting the market there, and I'm here specifically to respond to a couple of your questions, Commissioner Vigil, if you approve, Mr. Chair.

At the market at Oshara which we ran last summer, and our indoor market this winter and El Museo, we've had a mixture of contemporary artists, jewelry designers, people selling antiques, people selling what we call flea – stuff from grandma's attic, and kids selling their leftover toys. And it's been a lot of fun. The way we work is we rent the facility from the owner of the facility, and then we rent spaces at a very affordable rate to the individual vendors. We keep an eye on what's being sold. There are very specific restrictions from a state standpoint, but we're not rigid about it. If it's fun and reasonable and not junky we encourage people to come back. The market regulates it pretty well.

So I wanted to respond in specific to that question and to stand for any other questions you might have.

CHAIRMAN MONTTOYA: Thank you, Walt. Commissioner Vigil.

COMMISSIONER VIGIL: Are these types of activities exempt from GRTs?

MR. BORTEN: No, they're not.

COMMISSIONER VIGIL: So the vendors have to charge that? And how do those transactions get reported?

MR. BORTEN: In the city I do two things. First, I have a City license for the event, which I purchase at the beginning of the year. I obtain each vendor's CRS number and I deliver their application for a City license, which is issued for \$10 for the 12-month period, the calendar year. And then Anita in the office over there writes that license. Now, the collection of gross receipts is a state matter. It's between the individual as you know.

COMMISSIONER VIGIL: Right.

MR. BORTEN: But we do license each vendor and provide a license to them with their CRS number. The City knows that they're there. And I have talked with staff about a similar procedure for the market at the Downs if we in fact do that.

COMMISSIONER VIGIL: That's good. Thank you, Mr. Chair. Thank you, Walt.

CHAIRMAN MONTTOYA: Okay. Thank you, Walt. Anyone else like to speak on this case? Okay seeing none, the public hearing is now closed.

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN MONTTOYA: Commissioner Holian.

SFC CLERK RECORDED 05/12/2010

COMMISSIONER HOLIAN: Thank you, Mr. Chair. First of all I would like to say that I'm really pleased to see the plans for the Downs going forward and I would like to thank our County staff for working with the Pojoaque Pueblo and the community in making these plans a reality. I think it's going to be not only great economic opportunities for our community but also it's a real community builder and so I am just so pleased with this.

So I would like to move for approval of the master plan extension with staff conditions, but the removal of conditions #4, #6 and #8 and instead to direct the Land Use Administrator to determine the number of flea markets and whether or not to approve special use permits. Did I get that right?

CHAIRMAN MONTTOYA: Yes.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTTOYA: Motion by Commissioner Holian, second by Commissioner Anaya. Discussion? Commissioner Stefanics and then Commissioner Anaya.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. Steve, I'd like to delve into the issue a little bit of Native American owned land. So Pojoaque Pueblo owns the Downs.

MR. ROSS: Right.

COMMISSIONER STEFANICS: So what authority do we then have over Native American lands?

MR. ROSS: Well, it's not trust land so we have the same authority we would have under any other lands.

COMMISSIONER STEFANICS: So, Mr. Chair and Steve, if any tribe bought some property in the unincorporated area of Santa Fe that they currently didn't own they would be subject to property tax?

MR. ROSS: Yes, conceivably.

COMMISSIONER STEFANICS: Gross receipts tax? Any fees on construction and permits, etc?

MR. ROSS: Right.

COMMISSIONER STEFANICS: Okay. Thank you, Mr. Chair.

CHAIRMAN MONTTOYA: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. First I'd like to thank Governor Rivera for working hard to remove the manure. I know that that was a big issue in the La Cienega area. The folks out there were concerned about it and so were we. So thank you, Governor, for you and your staff removing that manure. And I'd also like to thank Carl Dickens, the president from La Cienega Association for working hard as the president and notifying people and working closely with the Pojoaque Pueblo and the Governor. It makes our decision a lot easier when you have people in support of a project. So with that, thank you.

CHAIRMAN MONTTOYA: Okay. Thank you, Commissioner. Any other discussion? I'd just like to add my thanks to the community, Carl, Jose Varela Lopez, the La Cienega Association and recognize Alan Mosely, Tim Vigil, Paul Aragon, along with you, Janna, in terms of the work that the Pueblo is doing in working and collaborating with the community. It's a real partnership and it's going to be a win-win for the community and for Santa Fe County. So thank you.

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The motion passed by unanimous [5-0] voice vote.

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Danny Mayfield
Commissioner, District 1

Virginia Vigil
Commissioner, District 2

Robert Anaya
Commissioner, District 3



Kathy Holian
Commissioner, District 4

Liz Stefaries
Commissioner, District 5

Katherine Miller
County Manager

REC'D CLERK RECORDED 08/01/2012

**BCC CASE # MIS 10-5151
THE DOWNS AT SANTA FE MASTER PLAN EXTENSION
THE PUEBLO OF POJOAQUE DEVELOPMENT CORPORATION,
APPLICANT**

ORDER

THIS MATTER came before the Board of County Commissioners (hereinafter referred to as "the BCC") for hearing on May 8, 2012, on the Application of the Pueblo of Pojoaque Development Corporation (hereinafter referred to as "the Applicant"), for an extension of an existing Master Plan for the Downs at Santa Fe. The BCC, having reviewed the Application, supplemental materials, Staff report and having conducted a public hearing on the request, finds that the Application is well-taken and should be granted, and makes the following findings of fact and conclusions of law:

1. On August 14, 2001, the Board of County Commissioners granted Master Plan Approval to allow recreational/non-residential uses at the Downs at Santa Fe on 321 acres.
2. On November 9, 2004, the BCC granted approval of a Preliminary Development Plan for Phase I, subject to conditions, and Final Development Plan to be approved administratively.
3. On April 13, 2010, the Board of County Commissioners granted a request made by the Pueblo of Pojoaque Development Corporation for a two year time extension of the existing Master Plan for the Downs at Santa Fe.
4. The Applicant requests a two-year time extension of its existing Master Plan.



62

5. The property is located within the La Cienega Traditional Historic Community, at 27475 I-25 West Frontage Road, within Sections 26 & 27, Township 16 North, Range 8 East (Commission District 3).
6. Master plan approvals may be renewed and extended for additional two year periods by the BCC at the request of the developer.
7. The existing Master Plan meets the Code criteria set forth in Article V, Section 5.2.4, (Master Plan Approval).
8. The Application meets the Code criteria set forth in Article V, Section 5.2.7, (Expiration of Master Plan).
9. The local community supports the possible future use and growth of the Downs.
10. Janna Werner representing the Applicant spoke in favor of the Application.
11. Carl Dickens, President of the La Cienega Valle Association, J.J. Gonzales and Armando Jurado spoke in favor of the Application.
12. After conducting a public hearing on the request and having heard from the Applicant and public, the Board of County Commissioners hereby approves the request for a two year time extension of the existing Master Plan.

IT IS THEREFORE ORDERED that the Application is approved, and the Applicant is allowed a two year time extension of the existing Master Plan.

I certify that the Application was approved by the Board of County Commissioners on this 31 day of JULY, 2012.

The Board of County Commissioners of Santa Fe County

By: *Liz Stefanes*
BCC Chairperson

ATTEST:

Valerie Espinoza
Valerie Espinoza, County Clerk

APPROVED AS TO FORM:

Stephen C. Ross *yr*
Stephen C. Ross, County Attorney



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC ORDER
PAGES: 7

I Hereby Certify That This Instrument Was Filed for
Record On The 1ST Day Of August, 2012 at 12:53:30 PM
And Was Duly Recorded as Instrument # 1676932
Of The Records Of Santa Fe County

Marillea [Signature] Witness My Hand And Seal Of Office
Deputy Valerie Espinoza
County Clerk, Santa Fe, NM

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District, designates Lot C-1 as an employment center zone which allows for wholesale distribution as a special use. A special use is a use allowed in the approved master plan.

The applicant requests approval of a spirituous liquor and wine wholesale liquor license, a wholesale license to allow the applicant to warehouse and distribute spirituous liquor and wine wholesale. The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6-B-4 NMSA of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County Commissioners is required to conduct a public hearing on the request to grant a spirituous liquor and wine wholesaler liquor license at this location.

Growth Management staff has reviewed this project for compliance with pertinent code requirements and finds the following facts to support this submittal. Ordinance 2000-12, Community College District designates Lot C-1 as an employment center zone which allows for wholesale distribution as a special use. The Board of County Commissioners approved the Thornburg property master plan which allows wholesale distribution of spirituous liquor and wine. The applicant has met the State of New Mexico requirements for noticing, distance from schools and churches. Staff's recommendation is approval of a spirituous liquor and wine wholesaler liquor license to be located at 17 Bisbee Court. Madam Chair, I stand for any questions.

CHAIR STEFANICS: Thank you very much. We're going to move right to public hearing. This is a public hearing. Is there anyone here to speak on behalf of or against this approval? Is there anyone who'd like to speak? Would you as the applicant like to come forward? Right now, you're seeing no opposition, no anything. Is there anybody here to speak? Okay. The public hearing is closed. Commissioners, are there any questions before I move for approval?

I would move BCC Case #MIS 12-5100 for approval.

COMMISSIONER MAYFIELD: Second, Madam Chair.

CHAIR STEFANICS: There's a motion and a second.

The motion passed by unanimous [3-0] voice vote. [Commissioners Holian and Vigil were not present for this action.]

- XV. A. 2. BCC Case # MIS 10-5151 the Downs at Santa Fe Master Plan Extension. The Pueblo of Pojoaque Development Corporation, Applicant, Requests a Two-Year Time Extension, of a Previously Approved Master Plan, for the Downs at Santa Fe. The Property is Located within the La Cienega Traditional Historic Community, at 27475 I-25 West Frontage Road, within Sections 26 & 27, Township 16 North, Range 8 East (Commission District 3) Jose E. Larrañaga, Case Manager

MR. LARRAÑAGA: Thank you, Madam Chair. The Pueblo of Pojoaque Development Corporation, applicant, requests a two-year time extension, of a previously approved master plan, for the Downs at Santa Fe. The property is located within the La

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Cienega Traditional Historic Community, at 27475 I-25 West Frontage Road, within Sections 26 & 27, Township 16 North, Range 8 East, Commission District 3.

On August 13, 2001 the Board of County Commissioners granted master plan approval to allow recreational non-residential uses at the Downs at Santa Fe on 321 acres. On July 14, 2004 the BCC granted approval of reconsideration and clarification to conditions of the previously approved master plan. On November 9, 2004 the BCC granted approval of a preliminary development plan for phase 1, subject to conditions and final development plan to be approved administratively.

On April 13, 2010 the Board of County Commissioners granted a request made by the Pueblo of Pojoaque Development Corporation for a two-year time extension of an existing master plan for the Downs at Santa Fe. The applicant requests a two-year time extension of the existing master plan for the Downs at Santa Fe which was originally approved in 2001. The applicant states that representatives of the Downs are working with the La Cienega/La Cieneguilla Planning Committee and the Santa Fe County Planning Department on a community plan update to develop options for the use of the Downs property.

Article V, Section 1.2.1.d states a master plan is comprehensive in establishing a scope of a project yet is less detailed than a development plan. It provides a means for the County Development Review Committee and the Board to review projects and the subdivider to obtain concept approval for proposed development without the necessity of expending large sums of money for the submittals required for preliminary and final plat approval.

Article V, Section 5.2.7.b states master plan approvals may be renewed and extended for additional two-year periods by the Board at the request of the developer.

Growth Management staff has reviewed this project for compliance with pertinent code requirements and finds the following facts to support this submittal: the application meets code criteria to allow a two-year extension of the master plan. The existing master plan meets the criteria as set forth in Article V, Section 5.2.4; the application meets the criteria set forth in Article V, Section 5.2.7.

Staff recommendation: Staff recommends approval of a two-year time extension for the existing master plan for the Downs at Santa Fe. Madam Chair, I stand for any questions.

COMMISSIONER ANAYA: Madam Chair.

CHAIR STEFANICS: Thank you. Questions for staff?

COMMISSIONER ANAYA: Madam Chair, Mr. Larranaga, has the Pueblo been working closely with the Village of La Cienega and staff and other community members on this particular issue?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, yes. They have representatives as stated in the summary working with the planning group and with our planning staff as far as making that area, Los Pinos and the Downs – what they're going to do on the Downs property and the Los Pinos area, maybe changing it into a mixed use and working on that plan to incorporate it into the Sustainable Land Development Code.

COMMISSIONER ANAYA: Okay. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. Is the applicant here? Commissioner Mayfield, did you have a question from staff?

COMMISSIONER MAYFIELD: Madam Chair, I'll hear from the applicant first.

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CHAIR STEFANICS: Okay. So let's hear from the applicant. Do you have anything you'd like to say? And then we're going to the public hearing. Could you introduce yourself please?

JANNA WARNER: Madam Chair, my name is Janna Warner. I'm general counsel with the Pueblo of Pojoaque Development Corporation. The Pueblo of Pojoaque Development Corporation is the owner of the Downs at Santa Fe and we respectfully request a two-year time extension of a previously approved master plan. A very brief history, to repeat, as Mr. Larranaga has stated, in 2001 the Board of County Commissioners originally approved our master plan for recreational and non-residential use. A key in the master plan at that time of course was a historical use for the horse racing. In 2008 the New Mexico State Racing Commission denied the Downs' application for a horse-racing license. By state statute in New Mexico there is a limit of five horse racing licenses to be granted and the last one had been granted to Raton.

Then in 2010 the Board of County Commission again granted a two-year extension of the master plan. Over the past year we've met regularly and worked with the La Cienega/La Cieneguilla Planning Committee and the Santa Fe County Planning Department on the community plan update. As Mr. Larranaga stated, we're looking for a change to mixed use for that property. It's 321 acres. We continue to work with the local community. Currently, we're in the third year of a lease for a local flea market and farmers market at the site.

In conclusion then the Pueblo of Pojoaque Development Corporation respectfully requests the approval of a two-year time extension of our master plan.

CHAIR STEFANICS: Thank you very much. Just have a seat up front in case there's any questions later. Is there anybody here – this is a public hearing, so this is the point in time we would like to hear comments supporting or in opposition and if you'd come up as a group so that we can have you sworn in. We need to have you sworn in before you can make your comments. So anybody else besides these two gentlemen?

[Duly sworn, Carl Dickens testified as follows:]

CARL DICKENS: Again, my name is Carl Dickens from the La Cienega Valley Association. I'm happy to report that we have had a very strong and ongoing relationship with the Pueblo of Pojoaque in terms of planning for not just for their property but for the entire community. They have had representatives at each of the La Cienega/La Cieneguilla Planning Committee meetings that have been meeting now for almost 18 months in an effort to amend our community plan.

Rick Dumiak who is the facilities director has been an important and essential part of that committee. So we're looking forward to – we feel like we've developed a really good relationship with the Pueblo of Pojoaque and we look forward to their proposed development plan that we expect to see within the next year or so. We're confident they will take into account our concerns, our needs of the community and that we will have a development that will be a vibrant part of our community. So we absolutely support the extension of this master plan. Thank you.

CHAIR STEFANICS: Thank you very much.

[Duly sworn, J.J. Gonzales testified as follows:]

J.J. GONZALES : Thank you, Commissioners. My name is J. J. Gonzales. I have to say that I would like you to support the two-year extension. For the first time in many years the race track area has been a good neighbor. Prior to that we had many, many problems

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REC'D CLERK RECORDED 05/08/2012

with the previous owners but since Pojoaque took it over they have done more than anything to work with the residents of La Cienega. They've been supportive. They've given donated space for the growers market. They've done everything that the community has asked them to do. They're good neighbors.

I would like to emphasize that I hope that at some point they would do a connection to the County water system because they have a lot of water rights on that property and I think that to help out the community I think it would be very wise of them to kind of hook up to the County water system and help out the agricultural aspect of La Cienega. But I support this two-year extension and thank you very much.

CHAIR STEFANICS: Thank you for coming today, Mr. Gonzales. Anybody else who didn't get sworn in, come on up. Anybody else in the audience who wants to speak.

[Duly sworn, Armando Jurado testified as follows:]

ARMANDO JURADO: My name is Armando Jurado and I own property right next to the Downs, and I'm just here to support the two-year extension for them. Thank you.

CHAIR STEFANICS: Thank you very much. Anyone else? Thank you. The public hearing is now closed. We are back to questions and comments from Commission members.

COMMISSIONER ANAYA: Madam Chair.

CHAIR STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I appreciate the comments and especially appreciate the presence of the La Cienega Valley Association and Mr. Gonzales who's a member from District 3 on the CDRC. I thank them for their work and service and with that said I would move for approval.

COMMISSIONER MAYFIELD: Second, Madam Chair.

CHAIR STEFANICS: Thank you. There's a motion and a second. Any further discussion?

COMMISSIONER MAYFIELD: Madam Chair, I'd just like to recognize the Pueblo of Pojoaque and thank them for working well with the community members, even if they are outside of District 1. That's just reassuring to know. Thank you.

The motion passed by unanimous [3-0] voice vote. [Commissioners Holian and Vigil were not present for this action.]

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Yes.

COMMISSIONER MAYFIELD: May I ask just a procedural question of Mr. Ross. Madam Chair, Mr. Ross, if a two-year extension, is an applicant or the development process doesn't come to this Commission within the two-year expiration does it automatically go away?

MR. ROSS: Madam Chair, Commissioner Mayfield, Mr. Larranaga has the answer to that question.

MR. LARRAÑAGA: Madam Chair, Commissioner Mayfield, as the code reads they could come in for a two-year time extension. So they could come in for another two-year time extension until they maybe – the planning for the mixed use hasn't been developed yet or they will have fit in a development plan. Or even if they're working on the

68

2. Suitability of the site to accommodate the proposed development;
3. Suitability of the proposed uses and intensity of development at the location;
4. Impact to schools, adjacent lands or the County in general;
5. Viability of proposed phases of the project to function as completed developments in the case that subsequent phases of the project are not approved or constructed;
6. Conformance to applicable law and County ordinances in effect at the time of consideration, including required improvements and community facilities and design and/or construction standards.

5.2.5 Filing of Approved Master Plan

The approved master plan with maps which has been approved by and received signatures of the County Development Review Committee Chairman and Board Chairman shall be filed of record at the County Clerk's Office.

5.2.6 Amendments and Future Phase Approvals

- a. Approval of the master plan is intended to demonstrate that the development concept is acceptable and that further approvals are likely unless the detailed development plans cannot meet the requirements of applicable law and County ordinances in effect at that time. Each phase of the development plan must be considered on its own merits.
- b. The Code Administrator may approve minor changes to the master plan. Any substantial change in land use or any increase in density or intensity of development in the approved master plan requires approval by the County Development Review Committee and the Board.
- c. Any changes approved by the Code Administrator pursuant to Section 5.2.6b of this Article shall be subject to the review and approval of County Development Review Committee and the Board at the time of development plan or plat approval.
- d. The phasing schedule may be modified by the Board at the request of the developer as economic circumstances require as long as there is no adverse impact to the overall master plan. (See Article V, Section 4.5)

5.2.7 Expiration of Master Plan

- a. Approval of a master plan shall be considered valid for a period of five years from the date of approval by the Board.
- b. Master plan approvals may be renewed and extended for additional two year periods by the Board at the request of the developer.
- c. Progress in the planning or development of the project approved in the master plan consistent with the approved phasing schedule shall constitute an automatic renewal of the master plan approval. For the purpose of this Section, "progress" means the approval of preliminary or final development plans, or preliminary or final subdivision plats for any phase of the master planned project.

History: 1980 Comp. 1980-6 Sections 4.4, 4.5, 5.1 and 5.2 were amended by County Ordinance 1987-1 to provide for the submittal of a master plan.

5.3 Preliminary Plat Procedures

5.3.1 Introduction and Description

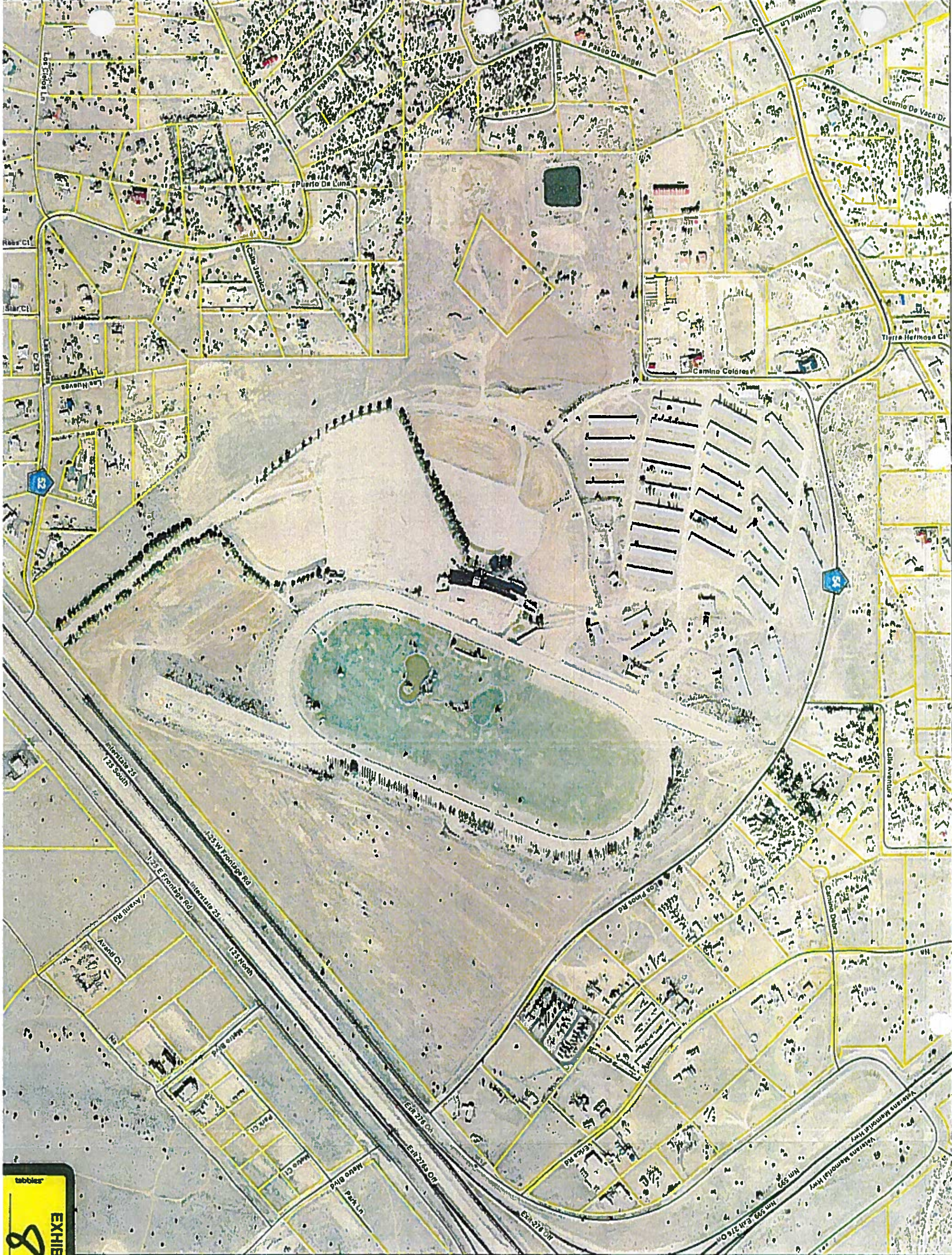
- 5.3.1a Preliminary plats shall be submitted for Type-I, Type-II, Type-III, except Type-III subdivisions that are subject to review under summary procedure as set forth in Subsection 5.5 of this Section, and Type-IV subdivisions.

EXHIBIT

7

V - 6

Map of Property
in Santa Fe County



Legend

- Parcels
- Minor Roads
- Major Roads

1:6,000

1 inch represents 500 feet

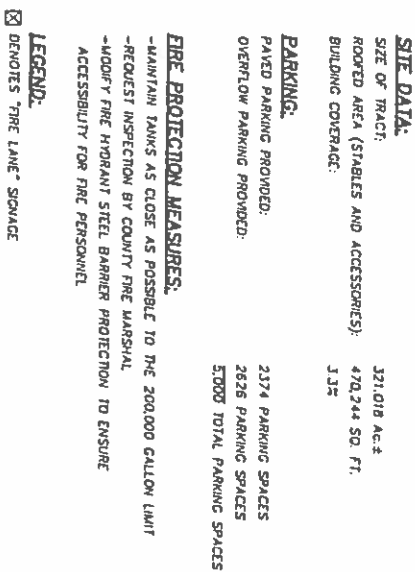


WARNING
Two (2) foot contour data sets are
NOT SUITABLE FOR ENGINEERING WORK
These data are appropriate for
PLANNING PURPOSES ONLY

Orthophoto from 2008
Contour Interval 2 Feet

This information is for reference only
Santa Fe County assumes no liability for
errors associated with the use of these data
Users are solely responsible for
confirming data accuracy





SANTA FE COUNTY NOTES & CONDITIONS:



1. THE APPLICANT SHALL SUBMIT A DRAINAGE AND GRADING PLAN INCLUDING STORMWATER CALCULATIONS WITH THE DEVELOPMENT PLAN FOR EACH PHASE.
2. THE GO-DRAINING RANGE WILL NOT BE ALLOWED IF NETTING ABOVE 24 FEET IS REQUIRED.
3. THE APPLICANT SHALL SUBMIT A DRAINAGE AND GRADING PLAN INCLUDING STORMWATER CALCULATIONS WITH THE DEVELOPMENT PLAN FOR EACH PHASE.
4. THE GO-DRAINING RANGE WILL NOT BE ALLOWED IF NETTING ABOVE 24 FEET IS REQUIRED.
5. THE APPLICANT SHALL SUBMIT A DRAINAGE AND GRADING PLAN INCLUDING STORMWATER CALCULATIONS WITH THE DEVELOPMENT PLAN FOR EACH PHASE.
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* NOTES 1,2 & 18 HAVE BEEN DELETED. REFERENCE WP EXTENSION BCC CASE/ 10-5150

PHASYN®

PHASE I 2005

- HORSE RACING, PARIMUTUEL BETTING AND RELATED ACTIVITIES PERMITTED BY STATE LAW.
 - CONCERTS AND EVENT PERFORMANCES INCLUDING ORQUESTS, CARNIVALS AND CIRCUSES. TEMPORARY STAGE TO BE USED FOR CONCERT EVENTS.
 - JOCKEY CLUB RESTAURANT TO BE OPENED ON AN AS NEEDED BASIS, ESPECIALLY FOR MEETINGS AND CONFERENCES. TURF CLUB AND FINISH LINE RESTAURANTS MAY BE REMODELED.
 - MEETINGS, CONFERENCES, MEETINGS, FAMILY REUNIONS AND CELEBRATORY EVENTS.
 - INSTALL SEPTIC TANK AND LEACH FIELD ON INTERIM BASIS, WITH PERMIT FROM NHD.
 - APPLY FOR "COMMUNITY" WATER SERVICE CERTIFICATION FROM NHD.
 - ADDRESS FIRE PROTECTION ISSUES PER REVIEW BY COUNTY FIRE MARSHAL.
 - IMPLEMENT APPROVED WASTE WATER DISCHARGE PERMIT.
- PHASE II 2008-2010**
- CONSTRUCT PERMANENT AMPHITHEATER.
 - CONSTRUCT DRIVING RANGE AND PITCH AND PUT COURSE.
- PHASING DOES NOT REFLECT CURRENT CIRCUMSTANCES

JAMES W. SIEBERT AND ASSOCIATES, INC. 8115 KILPATRICK STREET • SUITE 100 • NEW KENSINGTON 27565		DOWN'S AT SANTA FE MASTER PLAN EXTENSION	
(200) 861-1046  FAX (200) 861-7213	MASTER PLAN	SCALE: 1"=300' DRAWING BY: JT/PST CHECKED BY: JWS	DATE: MAY 2010 
APPROVED: 5/17/10 WORKING DATE: 5/17/10 TITLE: SECOND SETTING	DATE: 5/17/10 BY: JWS	PROJECT: A-10	



